

UNION

COLLEGE

FOUNDED 1795

Faculty Manual

Section V
Ethics and Conduct

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Union College
807 Union Street
Schenectady, NY 12308

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I. FACULTY RESOLUTION ON PROFESSIONAL ETHICS

(April 16, 2003)

Adapted from the AAUP Statement on Professional Ethics, AAUP Policy Documents and Reports (1995)

Institutions of higher education are conducted for the common good and not to further the interest of either the individual teacher or the institution as a whole. The common good depends upon the free search for truth and its free exposition. (1940 Statement on Principles of Academic Freedom and Tenure, the American Association of University Professors.)

- A. Professors (The term "professor" is used generically in this document to apply to all members of the Union College community who hold faculty status.), guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty, represent their own accomplishments accurately, and acknowledge those parts of their work that build on the work of others. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.
- B. As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students reflect each student's true merit. They respect the confidential nature of the relationship between teacher and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from their students. They protect the academic freedom of their students.
- C. As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debt, honestly representing their own and others' contributions to their work, and they strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of the College.
- D. As members of the Union College community, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors give due regard to their paramount responsibilities within their institution in determining the amount and character of work done outside it. When considering the interruption or

termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.

- E. As citizens of the surrounding community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to the College. When they speak or act as private persons they avoid creating the impression of speaking or acting for Union College. As citizens engaged in a profession that depends upon freedom for its health and integrity, faculty have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

II. ACADEMIC FREEDOM

The faculty member is entitled to freedom in the classroom in discussing a subject, but should be careful not to introduce into his or her teaching controversial matter which has no relation to the subject at hand or which creates an intimidating, hostile, or demeaning educational environment.

The faculty member is entitled to full freedom in research and in the publication of the results, subject to the adequate performance of other academic duties; but research for pecuniary return (contract research) must have written approval of the President of the College.

The college professor is a citizen, a member of a learned profession, and a member of the faculty of an educational institution. When speaking or writing as a citizen, a faculty member should be free from institutional censorship or discipline, but the association with the College imposes a special obligation. As a scholar and a member of the faculty, it should be remembered that the public may judge the profession and the institution by the utterances of its members. With regard to sanctions against a faculty member for extramural utterances, the controlling principle is that a faculty member's expression of opinion as a citizen cannot constitute grounds for dismissal unless it clearly demonstrates the faculty member's unfitness for his or her position. Moreover, a final decision in the considerations of sanctions against a faculty member for extramural utterances should take into account the faculty member's entire record as a teacher and scholar.

III. INDEMNIFICATION OF EMPLOYEES¹

A. Introduction

In the event a legal proceeding is commenced against a current or former employee of the College, the Vice President for Administration and Finance, with assistance from the College's General Counsel and from the Director of Budgets and Risk Management, will evaluate the relevant facts associated with the legal proceeding in consultation with the Board of Trustees' Counsel. The Board of Trustees, in accordance with the Bylaws of the College, will make the determination as to whether the College will offer a legal defense and/or indemnification.

Indemnification generally includes payment by the College of any fines, penalties, settlements, and any other expenses actually and reasonably incurred in connection with an actual civil, criminal, administrative, or investigative action, claim, or proceeding. The College will select the legal counsel except when it is determined that the employee's legal interests have substantially diverged from those of the College.

B. Conditions

The College will defend the employee for actions arising out of the employment relationship if:

- The employee's alleged actions or omissions were within the scope of his or her College duties.
- The employee's alleged actions and omissions were done in good faith, without criminal or other willful misconduct (for example, conduct demonstrating a substantial disregard and/or intentional neglect of duties and obligations).
- The employee reasonably believed that the alleged actions and omissions were lawful and in the best interests of the College.
- The employee gave the College's Vice President for Administration and Finance prompt written notice of such claim or action.
 - The original copy of any summons, complaint, notice, demand, letter, or any other document or pleading must be given to the Vice President for Administration and Finance as promptly as is reasonably possible.

¹ Indemnification of Trustees, and indemnification of employees serving as members of the Board of Trustees or as Administrative Officers, is to be handled in accordance with the College's By-Laws.

- Likewise, employees must give timely notice to the Vice President for Administration and Finance of legal issues as promptly as is reasonably possible before such issues give rise to a lawsuit or other legal proceeding or claim. A delay in giving notice to the Vice President for Administration and Finance as set forth in this paragraph can disqualify an employee from indemnification or other coverage under this Policy and potentially subject the employee to personal liability.
- The employee cooperates continuously and fully with the College in defense of the action.
- Any settlement or compromise of the claim or action has prior written approval of the College.

C. Exclusions

This Policy shall not extend to:

- Conduct giving rise to the claim or action occurring when the employee was providing services for which he or she was being compensated in whole or in part by someone other than the College unless the program under which the services in question were being provided had been approved in writing by the College.
- An employee who brings a legal action against the College or its interests.
- Any action to the extent that it may be indemnifiable under any College insurance policies in place that covers the employee whereupon the terms and conditions of that insurance policy shall govern. The College shall, upon receipt of the claim or notice of legal action from the employee, as required above, submit the same to the College's insurance company.
- Any and all internal College proceedings.
- Any indemnification prohibited by law.

D. Further Limitations

To the extent that the interests of an employee who is being defended by the College diverge from the College's interests, the College will pay the costs of a separate legal defense for that employee to the extent required by New York State law.

This policy is intended to serve only as a guide to the College's indemnification practices regarding the College's employees. Notwithstanding this Policy or any provision herein to the contrary. The College reserves the right to make determinations regarding indemnification of employees that it

believes are in the best interests of the College regardless of this Policy². The College's interpretation of this Policy and its determination as to indemnification in specific situations shall be final.

² The factors applied by the College to make the determination that the employee acted in the best interest of the College include, but are not limited to: (i) the employee appeared to have followed, in good faith, College policies; (ii) in matters of questionable propriety or uncertainty, the employee consulted with College officials and appeared to have followed the recommendations; (iii) the employee appeared to have acted to minimize the damage to the College's reputation by limiting the dissemination of information that has consequences for compliance with law and college policies to those who reasonably had a need to know that information.

IV. INTELLECTUAL PROPERTY

(May 20, 2005)

Basic Objective: Union College is a college of liberal arts and engineering whose mission is to maintain a community of inquiry, discourse, and experiment in which it is clear that scholarship and teaching are parts of a single enterprise. The intellectual endeavors and activities of its faculty, staff, or students may result in products of a tangible nature for which the College and the faculty, staff, or student may deem it advantageous to enter these products into commerce. The College strives to support its faculty and employees in securing commercial development of intellectual property resulting from their research so that society may benefit at the earliest opportunity. These products may be the subject of a patent application or a copyrightable work or other tangible material and are known collectively as “Intellectual Property.”

This policy is intended to:

- provide an incentive to creative intellectual effort and the advancement of knowledge;
- insure that the respective interests of the College, and supporting sponsor (if any) are considered and protected through the development of fair contracts and procedures;
- assist the Staff and the College to realize tangible benefits from Intellectual Property, and advance and encourage further research within the College with whatever funds accrue to the College from Intellectual Property resulting from College research.

Definitions:

- “College” shall mean Union College.
- “Staff” shall mean any member of the faculty, administration, staff, student body, postdoctoral fellow, or visiting scientist, whether or not they receive all or any part of their salary or other compensation from the College.
- “Inventor” shall mean any Staff member who shall conceive or reduce to practice an invention while engaged in College activities.
- “Author” shall mean any Staff member who prepares any College copyrightable work.
- “Contributor” shall mean any Staff member who shall have contributed substantially to the existence of any item of Intellectual Property.
- “College Activities” shall mean activities engaged in by a member of the Staff by: (a) written assignment of the College administration; (b) contractual agreement with the College or any sponsor; (c) material use of facilities (other than its libraries), or other resources of the College.
- “Intellectual Property” shall mean inventions, College copyrightable works, and tangible results of research.
- “Invention” shall mean “...any new and useful process, machine, manufacture or composition of matter or any new and useful improvement thereof...” as defined under the Patent Laws of the United States.

- “College Copyrightable Work” shall mean copyrightable works owned by the College in accordance with the policies set forth in Section XVIII.
- “Tangible Results of Research” shall mean a physical embodiment of the research effort, including physical embodiments of any invention, or College Copyrightable Work that results from College Activities by any member of the Staff. Such Tangible Results of Research shall include, but not be limited to antibodies, cell lines, new microorganisms, plant lines or progeny thereof; recombinant or other biological materials; integrated circuit chips, computer software, engineering prototypes and drawings, chemical compounds; devices; machines; and models.
- “Sponsor” shall mean any individual or organization that by written agreement with the College shall finance in whole or part any College Activities.
- “New Revenue” or “Annual New Royalty” are defined as revenues received from the licensing and developing of an Intellectual Property after deduction of all costs reasonably attributable to the protection and distribution of such Intellectual Property, including any reasonable expense of patent or copyright prosecution, maintenance, interference proceedings, litigation, marketing or other dissemination and licensing. Net revenues from the following sources are subject to distribution: option fees; up-front licensing fees; licensing payments; milestone payments; or proceeds from the sale of stock or other equity in the licensee company.

Coverage: These policies shall apply as a condition of appointment or employment by the College to every member of the Staff who during the period of their appointment or employment by the College shall: (a) conceive or first reduce to practice actually or constructively, any Invention; (b) prepare any College Copyrightable Work; or (c) contribute substantially to the existence of any Tangible Result of Research.

Disclosure of Intellectual Property: Every Staff member shall, in writing and in reasonable detail, give the Vice President for Academic Affairs (hereinafter “VPAA”)/Dean of the Faculty prompt notice of any: (a) Invention; (b) College Copyrightable Work; or (c) Tangible Result of Research which he or she shall desire to have patented, copyrighted or made available to the investigators or the public by commercial or other means, or shall believe or have reason to believe is patentable, copyrightable, or of value to other investigators or the public, or otherwise of commercial value.

Ownership of Inventions: The rights of ownership to all Inventions which result from College Activities shall be the property of the College; provided, however, that:

- Within the ninety (90) days next following disclosure of an Invention to the College under the preceding Section on Disclosure of Intellectual Property (or such further period of time as may be agreed upon by the Inventor and the VPAA), the VPAA shall determine, and advise the Inventor in writing, whether such rights shall be retained by the College, conditionally retained by the College or shall be released to the inventor; and
- The rights of ownership to every Invention conceived by any Staff member while engaged in other than College Activities shall be the property of that person.

Ownership of Copyrightable Works: The rights of ownership to all copyrightable works prepared while the Staff member is engaged in College Activities shall be the property of the College; provided however that:

- Within the ninety (90) days following disclosure of College copyrightable Work to the College under the preceding Section on Disclosure of Intellectual Property (or such further period of time as may be agreed upon by the Author and the “VPAA”, the “VPAA” shall determine, and advise the Author, in writing, whether such rights shall be retained by the College, conditionally retained by the College or shall be released to the Author; and
- Copyrightable works prepared by a Staff member while engaged in activities other than College activities shall be the property of the Author. See the Section on Copyright below for specific details.

Ownership of Tangible Results of Research: All Tangible Results of Research shall be the property of the College.

Sponsorship of Intellectual Property: The rights of ownership to each item of Intellectual Property produced during activities conducted pursuant to any agreement between the College and any Sponsor shall be determined in accordance with such agreement; however, it shall be the policy of the College to retain title to Intellectual Property whenever possible under state or federal law. Any agreement with a Sponsor pertaining to the ownership of Intellectual Property and assignment thereof shall be made between the College and the Sponsor in advance of the research or other activity that produces the Intellectual Property.

Disagreements: The President shall appoint a Committee on Intellectual Property composed of both faculty members and administrative officers (the VPAA shall serve ex officio). The creator of any Intellectual Property that is or might be covered under this Policy (see above for Patents) cannot be a voting member of this Committee. This Committee shall be the body to whom appeals may be made. Whenever legal protection for Intellectual Property is anticipated all persons engaged in such creative activity are encouraged to keep regular notebooks and records, preferably in the form of bound notebooks that are regularly signed and dated by the Inventor(s) as well as periodically signed by one or more witnesses.

Seeking a Patent or Copyright: Whenever the VPAA shall determine to seek the patenting or copyrighting of any Invention or College Copyrightable Work, the College shall, without expense to the Inventor or Author provide such professional services as it shall deem to be necessary or desirable for such purpose, and which may include the services of an independent patent organization. The Inventor or Author is obligated to cooperate fully in such effort, including his or her execution of all necessary or desirable agreements, applications, and other forms and instruments. If, at any time subsequently, the College shall terminate its effort to seek such patent or copyright, it shall promptly give written notice

thereof to the Inventor or Author who thereupon to the extent allowed by law or any sponsorship agreement shall be free at his or her expense to develop, license, and otherwise use the Invention, patent application, patent or copyright. In this event the Inventor or Author shall receive all benefits of any development, licensing or other use of the Invention, patent application, patent or copyright except that the College shall be entitled to recovery of associated costs.

Transfer or Sale of Tangible Results of Research: Tangible Results of Research may not be transferred or sold to any party outside the College before: (a) a disclosure of the Tangible Results of Research has been submitted to the VPAA and (b) the Contributor(s) has been notified by the Office of the VPAA of any required conditions of such transfer or sale. Such notification shall be made within thirty (30) days following the disclosure of Tangible Results of Research.

Promotion and Licensing: In interpreting and applying these policies, the College shall, by such means as it shall deem to be most effective and appropriate in each case, act to bring to the public all Intellectual Property to which the College has rights of ownership in whole or part. Such means may include, but shall not be limited to, agreements for the development, patenting, copyrighting, promotion, licensing, printing, distributing or manufacturing of any Intellectual Property; and in every case the College shall advise the Inventor, Author, or contributor of the terms of any such proposed agreement. No agreements will be entered into by the College without the review of all Inventors, Authors or contributors. Any disagreement between the College and the Inventor(s), Author(s) or contributor(s) concerning a proposed agreement will be resolved in a timely fashion by the Committee on Intellectual Property.

Proceeds from Distribution of Intellectual Property:

1. **Invention Proceeds:** Subsequent to the College's recovery of funds that were invested in patenting, marketing or developing Intellectual Property, the Contributor(s) and the College will share in the net revenue received from the Contributor's Intellectual Property(ies) owned by and licensed from the College. The Contributor(s) will receive 50% of the net revenues, and the College will receive 50%. It is understood that one-half of the College's portion will be for the primary purpose of advancing and encouraging further research and intellectual property development within Union College.

In the case of multiple Inventors, the Inventors' share will be distributed among the Inventors in accordance with a written agreement signed by all Inventors; or, if there is no such agreement, all Inventors will receive an equal share.

If inventorship is shared among College Inventors and inventors at one or more other institutions, the College will negotiate with the one or more other institutions concerning exclusive licenses and distribution of revenues. College net revenues from such agreements will be distributed to inventors at the College using the distribution formulae discussed above.

2. Copyright Proceeds: These will follow the same distribution and stipulations as Inventions listed above.
3. Tangible Results of Research Proceeds: To the extent allowed by law, where any Tangible Result of Research is not within the scope of the claims of a patent, patent application, or copyright, each Contributor shall share in any net revenue or annual net revenue to the same extent a Contributor shares in proceeds listed above for Inventions and Copyrights.

Sponsors: Other Organizations

If and when any conflict shall arise between these Policies and any condition or conditions of (a) any proposed grant from or contract with any organization offering to act as a Sponsor or (b) the patent, copyright or intellectual property policies and procedures of any other organization to which any joint appointment or any affiliation or consulting agreement is made, such conflict shall be referred to the Committee on Intellectual Property. Following consideration of the conflict the Committee shall recommend a course of action to the College administration. It is incumbent on the College to take all reasonable steps, including but not limited to appropriate legal action, to protect and advocate issues on its behalf and those of the Inventor, Author or Contributor in the event of a conflict with a Sponsor.

Release of Rights Ownership: The Office of the Vice President for Academic Affairs may, for reasons and upon terms deemed to be satisfactory by its office, release on behalf of the College at any time any Invention, patent, patent application, College Copyrightable Work, copyright or right of ownership to Tangible Results of Research to its Inventor, Author or Contributor. Such release shall be in writing in accordance with the Section on Seeking a Patent or Copyright.

Copyright: Within higher education, it has been the prevailing academic practice to treat the faculty member as the copyright owner of works that are created independently and at the faculty member's own initiative for traditional academic purposes. Examples include, but are not limited to, class notes and syllabi, books and articles, works of fiction and nonfiction, poems and dramatic works, musical and choreographic works, pictorial, graphic, and sculptural works, computer programs, computer-generated works, and educational software (commonly known as "courseware"). This practice has been followed for the most part, regardless of the physical medium in which these "traditional academic works" appear, that is, whether on paper or in audiovisual or electronic form. This practice should also ordinarily apply to the development of courseware for use in programs of distance education. Situations do arise, however, in which the College may fairly claim ownership of, or an interest in, copyright in works created by faculty members. Three general kinds of projects fall into this category: special works created in circumstances that may properly be regarded as "made for hire," negotiated contractual transfers, and joint works" as described in the Copyright Act.

1. Works Made for Hire

Although traditional academic work that is copyrightable—such as lecture notes and courseware, books, and articles—cannot normally be treated as works made for hire, some works created by College faculty members do properly fall within that category, allowing the institution to claim copyright ownership. Works created as a specific requirement of employment or as an assigned institutional duty that may, for example, be included in a written job description or an employment agreement, may be fairly deemed works made for hire. Even absent such prior written specification, ownership will vest with the college or university in those cases in which it provides the specific authorization or supervision for the preparation of the work. Examples are reports prepared by a dean or by the chair or members of a faculty committee, or college promotional brochures prepared by a director of admissions. The Copyright Act also defines as a “work made for hire” certain works that are commissioned from one who is not an employee but an “independent contractor.” The institution will own the copyright in such a commissioned work when the author is not a College employee, or when the author is such a faculty member but the work to be created falls outside the normal scope of that person’s employment duties (such as a professor of art history commissioned by the institution under special contract to write a catalog for a campus art gallery). In such situations, for the work-made-for-hire doctrine to apply there must be a written agreement so stating and signed by both parties; the work must also fall within a limited number of statutory categories, which include instructional texts, examinations, and contributions to a collective work.

2. Contractual Transfers

In situations in which the copyright ownership is held by the faculty member, it is possible for the individual to transfer the entire copyright, or a more limited license, to the College or to a third party. As already noted, under the Copyright Act, a transfer of all of the copyright or of an exclusive right must be reflected in a signed document in order to be valid. When, for example, a work is prepared pursuant to a program of “sponsored research” accompanied by a monetary grant from a third party, a contract signed by the faculty member providing that copyright will be owned by the College will be enforceable. Similarly, the College may reasonably request that the faculty member—when entering into an agreement granting the copyright or publishing rights to a third party—make efforts to reserve to the institution the right to use the work in its internally administered programs of teaching, research, and public service on a perpetual, royalty-free, nonexclusive basis.

3. Joint Works

Under certain circumstances, two or more persons may share copyright ownership of a work, notably when it is a “joint work.” The most familiar example of a joint work is a book or article written, fully collaboratively, by two academic colleagues. Each is said to be a “co-owner” of the copyright, with each having all the usual rights of the copyright owner provided that any income

from such uses is shared with the other. In rare situations it may be proper to treat a work as a product of the joint authorship of the faculty member and the College, so that both have a shared interest in the copyright. Whoever owns the copyright, the College may reasonably require reimbursement for any unusual financial or technical support. (“Unusual financial or technical support” is defined as follows: Extensive un-reimbursed use of major College laboratory, studio, or computational facilities, or human resources. The use of these facilities must be important to the creation of the intellectual property; merely incidental use of a facility does not constitute substantial use, or does extensive use of a facility commonly available to all faculty or professional staff (such as libraries and offices), nor does extensive use of a specialized facility for routine tasks. Use will be considered “unusual” and facilities will be considered “major” if similar use facilities would cost the creator more than \$5,000 (five thousand dollars) in constant 1984 dollars if purchased or leased in the public marketplace. Creators wishing to reimburse the College for the use of its facilities must make arrangements to do so before the level of facilities usage for a particular intellectual property becomes substantial as defined.) That reimbursement might take the form of future royalties or a nonexclusive, royalty-free license to use the work for internal educational and administrative purposes. This means that the course developer and the College must reach an understanding about the conditions of portability and commercialization of faculty work developed using substantial College resources. Ordinarily, such an understanding will be recorded in a written agreement between the course developer and the College on a course-by-course basis.

V. INVESTIGATING AND RESPONDING TO ALLEGATIONS OF SCIENTIFIC MISCONDUCT

A. Introduction

1. General Policy

An underlying principle of all research is the quest for truth. The credibility of research must be above reproach if public trust is to be maintained. Misconduct in research undermines the public trust placed in the research enterprise of our Nation's colleges and universities, and wastes valuable public and private resources. Therefore, it is the policy of Union College to neither condone nor tolerate scientific research misconduct by any member of its community. While breaches in such standards are rare, these must be dealt with promptly and fairly by all parties in order to preserve the integrity of the research community and of this College. This document applies to allegations of research misconduct; "misconduct" as used herein, means fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest error or differences of opinion.

- i. Fabrication is making up data or results and recording or reporting them;
- ii. Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record;
- iii. Plagiarism is the appropriation of another person's ideas, processes, results or words without giving appropriate credit.

Union College promotes the responsible conduct of research and encourages any person affiliated with the institution involved in research activities to follow the Plan for Training in the Responsible Conduct of Research Training Plan³.

2. Scope

This policy and the associated procedures apply to all individuals at Union College engaged in research, including that which is supported by or for which support is requested from the U.S. Public Health Service (PHS)⁴. This policy applies to any person paid by or under the control of the institution, such as scientists, trainees, technicians and other staff members, students, fellows,

³ Union College students conducting sponsored research activities are required by the National Science Foundation to complete training in the Responsible Conduct of Research.

⁴ Standards for inquiries and investigations into allegations of scientific misconduct are set forth in the Public Health Service's Code of Federal Regulations (C.F.R.) at Title 42 C.F.R. Part 50, Subpart A, entitled "Responsibility of PHS Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science."

guest researchers, or collaborators at Union College. In the case of undergraduate students involved in alleged scientific misconduct, this policy and the associated procedures shall apply in those instances where: 1) the research in question is supported by federal agencies; or 2) the student independently submitted a manuscript for peer-reviewed publication, with the intent of influencing the science surrounding the topic, without the participation of the faculty research advisor. Student matters may also, as appropriate, be handled under the relevant academic integrity (Honor Code) guidelines.

This policy and associated procedures will normally be followed when an allegation of possible misconduct in science is received by an institutional official. Particular circumstances in an individual case may dictate variation from the normal procedure deemed in the best interests of Union College.

B. Definitions

Allegation means any written or oral statement or other indication of possible scientific misconduct made to an institutional official.

Conflict of interest means the real or apparent interference of one person's interests with the interests of another person, where potential bias may occur due to prior or existing personal or professional relationships.

Deciding Official (DO) means the institutional official who makes final determinations on allegations of scientific misconduct and any responsive institutional actions. The DO will not be the same individual as the Research Integrity Officer (RIO) and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment.

Division III Representative to the FEC means a single faculty member appointed to represent their academic division (Biology, Chemistry, Geology, Mathematics, Physics, and Psychology) on the Faculty Executive Committee (FEC).

Division IV Representative to the FEC means a single faculty member appointed to represent their academic division (Bioengineering, Computer Science, Electrical & Computer Engineering, Engineering, and Mechanical Engineering) to the Faculty Executive Committee (FEC).

Faculty Executive Committee (FEC) means the committee comprised of a Chair, a Secretary, and four additional faculty members who shall be the four heads of the Academic Divisions responsible for, among several duties, revising the faculty constitution and bylaws to be in accord with the governance system and to establish orderly means to accomplish the business of the General Faculty

Good faith allegation means an allegation made with the honest belief that scientific misconduct may have occurred. An allegation is not in good faith if it is made with reckless disregard for or willful ignorance of facts that would disprove the allegation.

Inquiry means gathering information and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.

Investigation means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred and, if so, to determine the responsible person and the seriousness of the misconduct.

Office of Research Integrity (ORI) is the office within the U.S. Department of Health and Human Services (DHHS) that is responsible for the scientific misconduct and research integrity activities of the U.S. Public Health Service.

PHS means the U.S. Public Health Service, an operating component of the DHHS.

PHS regulation means the Public Health Service regulation establishing standards for institutional inquiries and investigations into allegations of scientific misconduct, which is set forth at 42 C.F.R. Part 50, Subpart A, entitled "Responsibility of PHS Awardee and Applicant Institutions for Dealing with and Reporting Possible Misconduct in Science."

PHS support means PHS grants, contracts, or cooperative agreements or applications thereof.

Research Integrity Advisory Committee (RIAC) is a standing committee comprised of Union College faculty and staff who will assist the Research Integrity Officer (RIO) in identifying the appropriate individuals to serve on inquiry and investigation committees.

Research Integrity Officer (RIO) means the institutional official responsible for assessing allegations of scientific misconduct and determining when such allegations warrant inquiries and for overseeing inquiries and investigations.

Research record means any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted, or reported research that constitutes the subject of an allegation of scientific misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal subject protocols; consent forms; medical charts; and patient research files.

Respondent means the person against whom an allegation of scientific misconduct is directed or the person whose actions are the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

Retaliation means any action that adversely affects the employment or other institutional status of an individual that is taken by an institution or an employee because the individual has in good faith, made an allegation of scientific misconduct or of inadequate institutional response thereto or has cooperated in good faith with an investigation of such allegation.

Scientific research means research activities conducted in the fields of science and engineering (S&E) consistent with the 2010 Classification of Instructional Programs (CIP 2010). S&E includes the following fields: agricultural sciences and natural resources sciences, biological and biomedical sciences, computer and information sciences, engineering, health and clinical sciences, mathematics and statistics, physical sciences, psychology, social sciences, and other science and engineering fields. For a detailed list of disciplines included in each of these fields, see section “13. *Fields of S&E, Crosswalk of fields of S&E to the National Center for Education Statistics (NCES) 2010 Classification of Instructional Programs (CIP)*”.

Scientific misconduct or misconduct in science means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the scientific community for proposing, conducting, or reporting research. It does not include honest error or honest differences in interpretations or judgments of data⁵.

Whistleblower means a person who makes an allegation of scientific misconduct.

C. Rights and Responsibilities

For Union College officials and administrators involved in matters of research integrity, please contact the Institutional Grants Office at College Relations.

1. Research Integrity Advisory Committee

The Research Integrity Advisory Committee (RIAC) is a standing committee comprised of Union College faculty and staff who will assist the Research Integrity Officer (RIO) in identifying the appropriate individuals to serve on inquiry and investigation committees. The RIO will consult with the RIAC to determine the various expertise and perspectives necessary for a fair inquiry and investigation.

Union College administrators and faculty serving on the RIAC include the:

- Dean of Studies
- Director of Undergraduate Research
- Director of Sponsored Programs:
- Division III Representative to the Faculty Executive Committee (FEC)
- Division IV Representative to the Faculty Executive Committee (FEC)

2. Research Integrity Officer

⁵ 42 C.F.R. § 50.102.

Union’s Dean of Academic Departments and Programs will serve as the Research Integrity Officer (RIO) who will have primary responsibility for implementation of the procedures set forth in this document. The RIO will be an individual well qualified to handle the procedural requirements involved and is sensitive to the varied demands made on those who conduct research, those who are accused of misconduct, and those who report apparent misconduct in good faith.

The RIO will consult with the Research Integrity Advisory Committee (RIAC) to identify appropriate individuals to be appointed to the inquiry and investigation committee, ensuring that necessary and appropriate expertise is secured to carry out a thorough and authoritative evaluation of the relevant evidence in an inquiry or investigation. The RIO will attempt to ensure that confidentiality is maintained.

The RIO will assist inquiry and investigation committees and all institutional personnel in complying with these procedures and with applicable standards imposed by government or external funding sources. The RIO is also responsible for maintaining files of all documents and evidence and for the confidentiality and the security of the files.

The RIO will report to ORI – and keep ORI updated on – any developments during the course of an inquiry or investigation that may affect current or potential DHHS funding for the individual(s) under investigation or that PHS needs to know to ensure appropriate use of Federal funds and otherwise protect the public interest⁶.

3. Whistleblower

The whistleblower will have an opportunity to testify before the inquiry and investigation committees, to review portions of the inquiry and investigation reports pertinent to his or her allegations or testimony, to be informed of the results of the inquiry and investigation, and to be protected from retaliation. Also, if the RIO has determined that the whistleblower may be able to provide pertinent information on any portions of the draft report, then these portions will be given to the whistleblower for comment.

The whistleblower is responsible for making allegations in good faith, maintaining confidentiality, and cooperating with an inquiry or investigation. The whistleblower has an obligation to respect the reputation of the respondent by refraining from activities potentially harmful or damaging to the reputation of the respondent.

4. Respondent

⁶ 42 C.F.R. § 50.103(d)(12)

The respondent will be informed of the allegations when an inquiry is opened and notified in writing of the final determinations and resulting actions. The respondent will also have the opportunity to be interviewed by and present evidence to the inquiry and investigation committees, and to review the draft inquiry and investigation reports.

The respondent is responsible for maintaining confidentiality and cooperating with the conduct of an inquiry or investigation. If the respondent is not found guilty of scientific misconduct, he or she has the right to request and receive institutional assistance in restoring his or her reputation⁷.

⁷ 42 C.F.R. § 50.103(d)(13)

5. Deciding Official

The Vice President for Academic Affairs shall serve as the Deciding Official (DO), and will receive the inquiry and/or investigation report and any written comments made by the respondent or the whistleblower on the draft report. The DO will consult with the RIO or other appropriate officials and will determine whether to conduct an investigation, whether misconduct occurred, whether to impose sanctions, or whether to take other appropriate administrative actions.

D. General Policies and Principles

1. Responsibility to Report Misconduct

All employees or individuals associated with Union College should report observed, suspected, or apparent misconduct in science to the RIO. If an individual is unsure whether a suspected incident falls within the definition of scientific misconduct, he or she may call the RIO to discuss the suspected misconduct informally.

At any time, an employee may have confidential discussions and consultations about concerns of possible misconduct with the RIO and will be counseled about appropriate procedures for reporting allegations. Should an individual observe or suspect scientific misconduct involving the RIO, the individual may contact any member of the Research Integrity Advisory Committee (RIAC) about appropriate procedures for reporting allegations.

Union College administrators and faculty serving on the RIAC include the:

- Dean of Studies
- Director of Undergraduate Research
- Director of Sponsored Programs
- Division III Representative to the Faculty Executive Committee (FEC)
- Division IV Representative to the Faculty Executive Committee (FEC)

2. Cooperation with Research Misconduct Proceedings

Institutional members will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Institutional members, including respondents, have an obligation to provide evidence relevant to research misconduct allegations to the RIO or other institutional officials.

3. Confidentiality

The RIO shall make all reasonable and practical efforts to maintain confidentiality, consistent with federal regulations and institutional policy, and to: (1) limit disclosure of the identity of respondents and complainants to those who need to know in order to carry out a thorough, competent, objective and fair research misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding. The RIO should use written confidentiality agreements or other mechanisms to ensure that the recipient does not make any further disclosure of identifying information.

4. Protecting the Whistleblower⁸, Witnesses and Committee Members

The RIO will monitor the treatment of individuals who bring allegations of misconduct or of inadequate institutional response thereto, and those who cooperate in inquiries or investigations. The RIO will ensure that these persons will not be retaliated against in the terms and conditions of their employment or other status at the institution and will review instances of alleged retaliation for appropriate action.

Employees should immediately report any alleged or apparent retaliation to the RIO. Institutional members may not retaliate in any way against complainants, witnesses, or committee members. Institutional members should immediately report any alleged or apparent retaliation against complainants, witnesses or committee members to the RIO, who shall review the matter and, as necessary, make all reasonable and practical efforts to counter any potential or actual retaliation and protect and restore the position and reputation of the person against whom the retaliation is directed.

Also the institution will protect the privacy of those who report misconduct in good faith to the maximum extent possible. For example, if the whistleblower requests anonymity, the institution will make an effort to honor the request during the allegation assessment or inquiry within applicable policies and regulations and state and local laws, if any. The whistleblower will be advised that if the matter is referred to an investigation committee and the whistleblower's testimony is required, anonymity may no longer be guaranteed. Institutions are required to undertake diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations⁹.

5. Protecting the Respondent

⁸ 42 C.F.R. § 50.103(d)(2)

⁹ 42 C.F.R. § 50.103(d)(13)

Inquiries and investigations will be conducted in a manner that will ensure fair treatment to the respondent(s) in the inquiry or investigation and confidentiality to the extent possible without compromising public health and safety or thoroughly carrying out the inquiry or investigation¹⁰.

6. Cooperation with Inquiries and Investigations

Institutional employees will cooperate with the RIO and other institutional officials in the review of allegations and the conduct of inquiries and investigations. Employees have an obligation to provide relevant evidence to the RIO or other institutional officials on misconduct allegations.

E. Conducting the Inquiry

1. Preliminary Assessment

Upon receiving an allegation of scientific misconduct, the RIO will assess the allegation to determine whether the allegation falls within the definition of research misconduct, and is sufficiently credible, significant, and specific so that the potential evidence of research misconduct may be identified.

The assessment period should be brief, preferably concluded within a week. In conducting the assessment, the RIO need not interview the complainant, respondent, or other witnesses, or gather data beyond any that may have been submitted with the allegation, except as necessary to determine whether the allegation is sufficiently credible, significant, and specific so that potential evidence of research misconduct may be identified. The RIO shall, on or before the date on which the respondent is notified of the allegation, obtain custody of, inventory, and sequester all research records and evidence needed to conduct the research misconduct proceeding.

Preliminary Assessment of Allegations Involving Undergraduates

In the case of undergraduate students involved in alleged scientific misconduct, this policy and the associated procedures shall apply in those instances where: 1) the research in question is supported by federal agencies; or 2) the student independently submitted a manuscript for peer-reviewed publication, with the intent of influencing the science surrounding the topic, without the participation of the faculty research advisor. Student matters may also, as appropriate, be handled under the relevant academic integrity (Honor Code) guidelines.

2. Initiation and Purpose of the Inquiry

Following the preliminary assessment, if the RIO determines that the criteria for an inquiry are met, he or she will immediately initiate the inquiry process. In initiating the inquiry, the RIO

¹⁰ 42 C.F.R. § 50.103(d)(3)

should identify clearly the original allegation and any related issues that should be evaluated. The purpose of the inquiry is to make a preliminary evaluation of the available evidence and testimony of the respondent, whistleblower, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation. The purpose of the inquiry is **not** to reach a final conclusion about whether misconduct definitely occurred or who was responsible. The findings of the inquiry must be set forth in an inquiry report.

3. Sequestration of the Research Records

At the time of or before beginning an inquiry, the RIO must make a good faith effort to notify the respondent in writing, if the respondent is known. If the inquiry subsequently identifies additional respondents, they must be notified in writing. On or before the date on which the respondent is notified, or the inquiry begins, whichever is earlier, the RIO must take all reasonable and practical steps to obtain custody of all the research records and evidence needed to conduct the research misconduct proceeding, inventory the records and evidence and sequester them in a secure manner, except that where the research records or evidence encompass scientific instruments shared by a number of users, custody may be limited to copies of the data or evidence on such instruments, so long as those copies are substantially equivalent to the evidentiary value of the instruments. The RIO may consult with ORI or other pertinent federal agencies for advice and assistance in this regard.

4. Appointment of the Inquiry Committee

The RIO will identify and appoint members of the inquiry committee. The inquiry committee should consist of individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and issues related to the allegation, interview the principals and key witnesses, and conduct the inquiry. These individuals may be scientists, subject matter experts, administrators, or other qualified persons, and they may be from inside or outside the institution.

The RIO shall notify the respondent of the names of the standing committee members to give the respondent an opportunity to object to a proposed member based upon a personal, professional, or financial conflict of interest. Objections must be filed within 10 calendar days. If an objection is filed, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

5. Charge to the Committee and the First Meeting

The RIO will prepare a charge for the inquiry committee that describes the allegations and any related issues identified during the allegation assessment and states that the purpose of the inquiry is to make a preliminary evaluation of the evidence and testimony of the respondent,

whistleblower, and key witnesses to determine whether there is sufficient evidence of possible scientific misconduct to warrant an investigation as required by the PHS regulation. The purpose is not to determine whether scientific misconduct definitely occurred or who was responsible. At the committee's first meeting, the RIO will review the charge with the committee, discuss the allegations, any related issues, and the appropriate procedures for conducting the inquiry, assist the committee with organizing plans for the inquiry, and answer any questions raised by the committee. The RIO will be present or available throughout the inquiry to advise the committee as needed.

6. Inquiry Process

The inquiry committee will normally interview the whistleblower, the respondent, and key witnesses as well as examining relevant research records and materials. Then the inquiry committee will evaluate the evidence and testimony obtained during the inquiry. After consultation with the RIO, the committee members will decide whether there is sufficient evidence of possible scientific misconduct to recommend further investigation. The scope of the inquiry does not include deciding whether misconduct occurred or conducting exhaustive interviews and analyses.

F. The Inquiry Report

1. Elements of the Inquiry Report

A written inquiry report must be prepared that includes the following information: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) the external support pertinent to the allegation, including, for example, grant numbers, grant applications, contracts and publications listing the support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant; (6) the names and titles of the committee members and experts who conducted the inquiry; (7) a summary of the inquiry process used; (8) a list of the research records reviewed; (9) summaries of any interviews; (10) and whether any other actions should be taken if an investigation is not recommended.

Institutional counsel may be asked to review the report for legal sufficiency. Modifications should be made as appropriate in consultation with the RIO and the inquiry committee.

2. Comments on the Draft Report by the Respondent and the Whistleblower

The RIO will provide the respondent with a copy of the draft inquiry report for comment and rebuttal and will provide the whistleblower, if he or she is identifiable, with portions of the draft inquiry report that address the whistleblower's role and opinions in the investigation.

- i. Confidentiality: The RIO may establish reasonable conditions for review to protect the confidentiality of the draft report;
- ii. Receipt of Comments: Within 10 calendar days of their receipt of the draft report, the whistleblower and respondent will provide their comments, if any, to the inquiry committee. Any comments that the whistleblower or respondent submits on the draft report will become part of the final inquiry report and record¹¹. Based on the comments, the inquiry committee may revise the report as appropriate.

3. Inquiry Decision and Notification

- i. Decision by Deciding Official: The RIO will transmit the final report and any comments to the Deciding Official (DO), who will make the determination of whether findings from the inquiry provide sufficient evidence of possible scientific misconduct to justify conducting an investigation. The inquiry is completed when the DO makes this determination, which will be made within 60 days of the first meeting of the inquiry committee. Any extension of this period will be based on good cause and recorded in the inquiry file;
- ii. Notification: Within 30 calendar days of the DO's decision that an investigation is warranted, the RIO will also notify those institutional officials who need to know of the DO's decision. Where PHS funding is involved, the RIO will also provide ORI, or other pertinent agency as required by regulation, with the DO's written decision and a copy of the inquiry report. The RIO must provide the following information to ORI upon request: (1) the institutional policies and procedures under which the inquiry was conducted; (2) the research records and evidence reviewed, transcripts, or recordings of any interviews, and copies of all relevant documents; and (3) the charges to be considered in the investigation.

The RIO and DO shall determine what if any information to provide to the complainant at various stages in the process, balancing the complainant's legitimate interest in the proceeding, its progress, and its outcome, with the need to safeguard the integrity and confidentiality of the process.

- iii. Documentation of Decision Not to Investigate: If the DO decides that an investigation is not warranted, the RIO shall secure and maintain for 7 years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI, or any other pertinent agency as required by regulation, of the reasons why an investigation was not conducted.

¹¹ 42 C.F.R. § 50.103(d)(1)

4. Time Limit for Completing the Inquiry Report

The inquiry committee will normally complete the inquiry and submit its report in writing to the RIO no more than 60 calendar days following its first meeting¹², unless the RIO approves an extension for good cause. If the RIO approves an extension, the reason for the extension will be entered into the records of the case and the report¹³. The respondent also will be notified of the extension.

G. Conducting the Investigation

1. Purpose of the Investigation

The purpose of the investigation is to explore in detail the allegations, to examine the evidence in depth, and to determine specifically whether misconduct has been committed, by whom, and to what extent. The investigation will also determine whether there are additional instances of possible misconduct that would justify broadening the scope beyond the initial allegations. This is particularly important where the alleged misconduct involves clinical trials or potential harm to human subjects or the general public or if it affects research that forms the basis for public policy, clinical practice, or public health practice. The findings of the investigation will be set forth in an investigation report.

2. Sequestration of the Research Records

The RIO will immediately sequester any additional pertinent research records that were not previously sequestered during the inquiry. This sequestration should occur before or at the time the respondent is notified that an investigation has begun. The need for additional sequestration of records may occur for any number of reasons, including the institution's decision to investigate additional allegations not considered during the inquiry stage or the identification of records during the inquiry process that had not been previously secured. The procedures to be followed for sequestration during the investigation are the same procedures that apply during the inquiry.

3. Appointment of the Investigation Committee

The RIO, in consultation with other institutional officials as appropriate, will appoint an investigation committee and the committee chair within 10 days of the notification to the respondent that an investigation is planned or as soon thereafter as practicable. The investigation committee should consist of at least three individuals who do not have real or apparent conflicts of interest in the case, are unbiased, and have the necessary expertise to evaluate the evidence and

¹² 42 C.F.R. § 50.103(d)(1)

¹³ 42 C.F.R. § 50.103(d)(1)

issues related to the allegations, interview the principals and key witnesses, and conduct the investigation¹⁴. These individuals may be scientists, administrators, subject matter experts, or other qualified persons, and they may be from inside or outside the institution. Individuals appointed to the investigation committee may also have served on the inquiry committee.

The RIO will notify the respondent of the proposed committee membership within 5 days. If the respondent submits a written objection to any appointed member of the investigation committee or expert, the RIO will determine whether to replace the challenged member or expert with a qualified substitute.

4. Charge to the Committee and First Meeting

Charge to the Committee

The RIO will define the subject matter of the investigation in a written charge to the committee that describes the allegations and related issues identified during the inquiry, defines scientific misconduct, and identifies the name of the respondent. The charge will state that the committee is to evaluate the evidence and testimony of the respondent, whistleblower, and key witnesses to determine whether, based on a preponderance of the evidence, scientific misconduct occurred and, if so, to what extent, who was responsible, and its seriousness.

During the investigation, if additional information becomes available that substantially changes the subject matter of the investigation or would suggest additional respondents, the committee will notify the RIO, who will determine whether it is necessary to notify the respondent of the new subject matter or to provide notice to additional respondents.

The First Meeting

The RIO, with the assistance of institutional counsel, will convene the first meeting of the investigation committee to review the charge, the inquiry report, and the prescribed procedures and standards for the conduct of the investigation, including the necessity for confidentiality and for developing a specific investigation plan. The investigation committee will be provided with a copy of these instructions and, where PHS funding is involved, the PHS regulation.

5. Investigation Process

The investigation committee will be appointed and the process initiated within 30 days of the completion of the inquiry, if findings from that inquiry provide a sufficient basis for conducting an investigation.¹⁵

¹⁴ 42 C.F.R. § 50.103(d)(8)

¹⁵ 42 C.F.R. § 50.103(d)(7)

The investigation will normally involve examination of all documentation including, but not necessarily limited to, relevant research records, computer files, proposals, manuscripts, publications, correspondence, memoranda, and notes of telephone calls.¹⁶ Whenever possible, the committee should interview the whistleblower(s), the respondents(s), and other individuals who might have information regarding aspects of the allegations.¹⁷ Interviews of the respondent should be tape recorded or transcribed. All other interviews should be transcribed, tape recorded, or summarized. Summaries or transcripts of the interviews should be prepared, provided to the interviewed party for comment or revision, and included as part of the investigatory file.¹⁸

H. The Investigation Report

1. Elements of the Investigation Report

The final report submitted to ORI must describe the policies and procedures under which the investigation was conducted, describe how and from whom information relevant to the investigation was obtained, state the findings, and explain the basis for the findings. The report will include the actual text or an accurate summary of the views of any individual(s) found to have engaged in misconduct as well as a description of any sanctions imposed and administrative actions taken by the institution.¹⁹

2. Comments on the Draft Report

Respondent

The RIO will provide the respondent with a copy of the draft investigation report for comment and rebuttal. The respondent will be allowed 10 days to review and comment on the draft report. The respondent's comments will be attached to the final report. The findings of the final report should take into account the respondent's comments in addition to all the other evidence.

Whistleblower

The RIO will provide the whistleblower, if he or she is identifiable, with those portions of the draft investigation report that address the whistleblower's role and opinions in the investigation. The report should be modified, as appropriate, based on the whistleblower's comments.

Institutional Counsel

¹⁶ 42 C.F.R. § 50.103(d)(7)

¹⁷ 42 C.F.R. § 50.103(d)(7)

¹⁸ 42 C.F.R. § 50.103(d)(7)

¹⁹ 42 C.F.R. § 50.104(a)(4); 42 C.F.R. § 50.103(d)(15)

The draft investigation report will be transmitted to the institutional counsel for a review of its legal sufficiency. Comments should be incorporated into the report as appropriate.

Confidentiality

In distributing the draft report, or portions thereof, to the respondent and whistleblower, the RIO will inform the recipient of the confidentiality under which the draft report is made available and may establish reasonable conditions to ensure such confidentiality. For example, the RIO may request the recipient to sign a confidentiality statement or to come to his or her office to review the report.

3. Institutional Review and Decision

Based on a preponderance of the evidence, the DO will make the final determination whether to accept the investigation report, its findings, and the recommended institutional actions. If this determination varies from that of the investigation committee, the DO will explain in detail the basis for rendering a decision different from that of the investigation committee in the institution's letter transmitting the report to ORI. The DO's explanation should be consistent with the PHS definition of scientific misconduct, the institution's policies and procedures, and the evidence reviewed and analyzed by the investigation committee. The DO may also return the report to the investigation committee with a request for further fact-finding or analysis. The DO's determination, together with the investigation committee's report, constitutes the final investigation report for purposes of ORI review.

When a final decision on the case has been reached, the RIO will notify both the respondent and the whistleblower in writing. In addition, the DO will determine whether law enforcement agencies, professional societies, professional licensing boards, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other relevant parties should be notified of the outcome of the case. The RIO is responsible for ensuring compliance with all notification requirements of funding or sponsoring agencies.

4. Transmittal of the Final Investigation Report to ORI

After comments have been received and the necessary changes have been made to the draft report, the investigation committee should transmit the final report with attachments, including the respondent's and whistleblower's comments, to the DO, through the RIO.

5. Time Limit for Completing the Investigation Report

An investigation should ordinarily be completed within 120 days of its initiation²⁰, with the initiation being defined as the first meeting of the investigation committee. This includes conducting the investigation, preparing the report of findings, making the draft report available to the subject of the investigation for comment, submitting the report to the DO for approval, and submitting the report to the ORI²¹.

I. Requirements for Reporting to the ORI

1. Allegations and Admissions of Scientific Misconduct when PHS Funding is Involved

- i. An institution's decision to initiate an investigation must be reported in writing to ORI, on or before the date the investigation begins²². At a minimum, the notification should include the name of the person(s) against whom the allegations have been made, the general nature of the allegation as it relates to the PHS definition of scientific misconduct, and the PHS applications or grant number(s) involved²³. ORI must also be notified of the final outcome of the investigation and must be provided with a copy of the investigation report²⁴. Any significant variations from the provisions of the institutional policies and procedures should be explained in any reports submitted to ORI.
- ii. If an institution plans to terminate an inquiry or investigation for any reason without completing all relevant requirements of the PHS regulation, the RIO will submit a report of the planned termination to ORI, including a description of the reasons for the proposed termination.²⁵
- iii. If the institution determines that it will not be able to complete the investigation in 120 days, the RIO will submit to ORI a written request for an extension that explains the delay, reports on the progress to date, estimates the date of completion of the report, and describes other necessary steps to be taken. If the request is granted, the RIO will file periodic progress reports as requested by the ORI.²⁶
- iv. When PHS funding or applications for funding are involved and an admission of scientific misconduct is made, the RIO will contact ORI for consultation and advice. Normally, the

²⁰ 42 C.F.R. § 50.104(a)(2)

²¹ 42 C.F.R. § 50.104(a)(2)

²² 42 C.F.R. § 50.104(a)(1)

²³ 42 C.F.R. § 50.104(a)(1)

²⁴ 42 C.F.R. § 50.104(d)(15)

²⁵ 42 C.F.R. § 50.104(a)(3)

²⁶ 42 C.F.R. § 50.104(a)(5)

individual making the admission will be asked to sign a statement attesting to the occurrence and extent of misconduct. When the case involves PHS funds, the institution cannot accept an admission of scientific misconduct as a basis for closing a case or not undertaking an investigation without prior approval from ORI.²⁷

v. The RIO will notify ORI at any stage of the inquiry or investigation if:

- There is an immediate health hazard involved²⁸;
- There is an immediate need to protect Federal funds or equipment²⁹;
- There is an immediate need to protect the interests of the person(s) making the allegations or of the individual(s) who is the subject of the allegations as well as his or her co-investigators and associates, if any³⁰;
- It is probable that the alleged incident is going to be reported publicly³¹; or
- The allegation involves a public health sensitive issue, e.g., a clinical trial; or
- There is a reasonable indication of possible criminal violation. In this instance, the institution must inform ORI within 24 hours of obtaining that information.³²

J. Institutional Administrative Actions

Union College will take appropriate administrative actions against individuals when an allegation of misconduct has been substantiated.³³

If the DO determines that the alleged misconduct is substantiated by the findings, he or she will decide on the appropriate actions to be taken, after consultation with the RIO. The actions, determined through the College's campus disciplinary process when appropriate, may include:

- Withdrawal or correction of all pending or published abstracts and papers emanating from the research where scientific misconduct was found.
- Removal of the responsible person from the particular project, letter of reprimand, special monitoring of future work, probation, suspension, salary reduction, or initiation of steps leading to possible rank reduction or termination of employment;

²⁷ 42 C.F.R. § 50.104(a)(3)

²⁸ 42 C.F.R. § 50.104(b)(1)

²⁹ 42 C.F.R. § 50.104(b)(2)

³⁰ 42 C.F.R. § 50.104(b)(3)

³¹ 42 C.F.R. § 50.104(b)(4)

³² 42 C.F.R. § 50.104(b)(5)

³³ 42 C.F.R. § 50.103(d)(14)

- Restitution of funds as appropriate

K. Other Considerations

1. Termination of Institutional Employment or Resignation Prior to Completing Inquiry or Investigation

The termination of the respondent's institutional employment, by resignation or otherwise, before or after an allegation of possible scientific misconduct has been reported, will not preclude or terminate the misconduct procedures.

If the respondent, without admitting to the misconduct, elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an inquiry or investigation, the inquiry or investigation will proceed. If the respondent refuses to participate in the process after resignation, the committee will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to cooperate and its effect on the committee's review of all the evidence.

2. Restoration of Respondent's Reputation

If the institution finds no misconduct and ORI concurs, after consulting with the respondent, the RIO will undertake reasonable efforts to restore the respondent's reputation. Depending on the particular circumstances, the RIO should consider notifying those individuals aware of or involved in the investigation of the final outcome, publicizing the final outcome in forums in which the allegation of scientific misconduct was previously publicized, or expunging all reference to the scientific misconduct allegation from the respondent's personnel file. Any institutional actions to restore the respondent's reputation must first be approved by the DO.

3. Protection of the Whistleblower and Others³⁴

Regardless of whether the institution or ORI determines that scientific misconduct occurred, the RIO will undertake reasonable efforts to protect whistleblowers who made allegations of scientific misconduct in good faith and others who cooperate in good faith with inquiries and investigations of such allegations. Upon completion of an investigation, the DO will determine, after consulting with the whistleblower, what steps, if any, are needed to restore the position or reputation of the whistleblower. The RIO is responsible for implementing any steps the DO approves. The RIO will also take appropriate steps during the inquiry and investigation to prevent any retaliation against the whistleblower.

³⁴ 42 C.F.R. § 50.103(d)(14)

4. Allegations Not Made in Good Faith

If relevant, the DO will determine whether the whistleblower's allegations of scientific misconduct were made in good faith. If an allegation was not made in good faith, the DO will determine whether any administrative action should be taken against the whistleblower.

5. Interim Administrative Actions

Institutional officials will take interim administrative actions, as appropriate, to protect Federal funds and ensure that the purposes of the Federal financial assistance are carried out³⁵.

L. Record Retention

After completion of a case and all ensuing related actions, the RIO will prepare a complete file, including the records of any inquiry or investigation and copies of all documents and other materials furnished to the RIO or committees. The RIO will keep the file for three years after completion of the case to permit later assessment of the case. ORI or other authorized DHHS personnel will be given access to the records upon request.³⁶

³⁵ 42 C.F.R. § 50.103(d)(11)

³⁶ 42 C.F.R. § 50.103(d)(10)

M. Fields of S&E

Crosswalk of fields of S&E to the National Center for Education Statistics (NCES) 2010 Classification of Instructional Programs (CIP)

Agriculture sciences and natural resources sciences:

Agricultural economics
Animal sciences
Fishing and fisheries sciences
Food science and technology
Forestry
Natural resources conservation and
research (includes environmental science)
Natural resources economics
Plant sciences
Soil sciences
Wildlife and wildlands science

Biological and biomedical sciences:

Anatomical sciences
Animal biology
Biochemistry
Bioinformatics
Biology
Biomathematics
Biophysics
Biotechnology
Botany
Cell biology
Cellular biology
Ecology
Evolution
Genetics
Human nutrition
Immunology
Microbiological sciences
Molecular biology
Molecular medicine
Neurobiology

Neurosciences

Pathology
Pharmacology
Physiology
Plant biology
Population biology
Toxicology
Zoology
Biological and biomedical sciences, other

Computer and information sciences:

Computer science
Computer software and media
applications
Computer systems networking and
telecommunications
Information science

Engineering:

Aeronautical engineering
Aerospace engineering
Agricultural engineering
Architectural engineering
Astronautical engineering
Automation engineering
Biochemical engineering
Bioengineering
Biological engineering
Biomedical engineering
Biosystems engineering
Ceramic sciences and engineering
Chemical engineering
Civil engineering
Computer engineering, general
Construction engineering

Electrical, electronics and communications engineering
Electromechanical engineering
Engineering chemistry
Engineering physics
Engineering science
Environmental engineering
Environmental health engineering
Forest engineering
Geological engineering
Geophysical engineering
Industrial engineering
Manufacturing engineering
Marine engineering
Materials engineering
Mechanical engineering
Mechatronics
Medical engineering
Metallurgical engineering
Mining and mineral processing
Naval architecture
Nuclear engineering
Ocean engineering
Operations research
Paper science and engineering
Petroleum engineering
Plastics engineering
Polymer engineering
Robotics
Surveying engineering
Systems engineering
Textile sciences and engineering
Engineering, other

Health and clinical sciences:

Allied health diagnostic, intervention, and treatment
Clinical laboratory science/research
Clinical nursing
Communication disorders sciences
Dentistry

Informatics
Kinesiology and exercise science
Medical clinical sciences
Medical illustration
Medical laboratory science/research
Medicine
Nursing research
Optometry
Oral sciences
Osteopathic medicine
Osteopathy
Pharmaceutical sciences
Pharmacy
Podiatric medicine
Podiatry
Public health
Registered nursing
Rehabilitation and therapeutic subfields
Veterinary biomedical sciences
Veterinary medicine

Mathematics and statistics:

Applied mathematics
Mathematics
Statistics
Mathematics and statistics, other

Physical sciences, group 1:

Astronomy
Astrophysics
Atmospheric sciences
Chemistry
Earth sciences
Geological sciences
Materials sciences
Meteorology
Oceanography
Physics

Psychology:

Applied psychology

Clinical psychology
Counseling psychology
Research and experimental psychology
Psychology, other

Social sciences:

Anthropology
Economics
Forensic science and technology
Geography and cartography
International relations
National security studies
Police science
Political science and government
Population studies
Sociology
Urban affairs
Social sciences, other

Archeology
Criminalistics
Criminal justice
Criminal science
Criminology
Demography

VI. REGULATIONS OF UNION COLLEGE GOVERNING CAMPUS CONDUCT

(Approved by the Board of Trustees of Union College on April 16, 1994)

A. Statement of Purpose

Under Section 6450 of the Education Law, every college chartered by the Regents of the State of New York is required to adopt rules and regulations for the maintenance of public order. In June of 1969, the Regulations of Union College, as approved by the Board of Trustees, were filed with the Commissioner of Education and the Board of Regents. It has now become necessary to amend those Regulations to clarify their scope and applicability. Nothing herein is intended, nor shall be construed, to limit or restrict the freedom of speech or peaceful assembly, since free inquiry and free expression are indispensable to the objectives of a higher educational institution. These rules and regulations are not to prevent or restrain controversy and dissent but to prevent interference with the rights of others, to preserve the ability of members of the College community to perform their respective responsibilities, and to maintain that public order appropriate to a college or university campus without which there can be no intellectual freedom, and they shall be interpreted and applied to that end.

B. Application of Rules

The rules hereby adopted shall govern the conduct of students, faculty, and staff, licensees, invitees, and all other persons, whether or not their presence is authorized upon the Union College campus, to which such rules are applicable, and all property under the control of Union College.

C. Prohibited Conduct

No person, either singly or in concert with others, shall

1. Obstruct the free movement of persons and vehicles in any place to which these rules apply.
2. Deliberately disrupt or prevent the peaceful and orderly conduct of classes, lectures, and meetings or deliberately interfere with the freedom of any persons to express their views, including invited speakers.
3. Enter upon and remain in any building or facility for any purpose other than its authorized uses or in such manner as to obstruct its authorized use by others, remain (without authorization) in any building or facility after it is normally closed, or refuse to leave any building or facility after being asked to do so by an authorized administrative officer.

4. Violate any rules or regulations relating to conduct as enumerated in the Student Conduct Code contained in the Student Handbook, including those filed with the Commissioner of Education and the Board of Regents.
5. Willfully incite others to commit any of the acts herein prohibited with specific intent to encourage them to do so.
6. Take any action or create or participate in the creation of, any situation which recklessly or intentionally endangers mental or physical health or which involves the forced consumption of liquor or drugs for the purpose of initiation into or affiliation with any organization.

D. Penalties

A person who shall violate any provisions of these rules shall:

1. If a trespasser or visitor without specific license or invitation, be subject to ejection.
2. If a licensee or invitee, have authorization to remain upon the campus or other property withdrawn and be directed to leave the premises. In the event of a failure or refusal to do so, the licensee or invitee be subject to ejection.
3. If a student, be subject to expulsion or such lesser disciplinary action as the facts of the case may warrant, including suspension, probation, loss of privileges, reprimand, or warning.
4. If a faculty member, be guilty of misconduct and subject to dismissal or termination of employment or such lesser disciplinary action as the facts may warrant, including suspension without pay or censure.
5. If a staff member, be guilty of misconduct and subject to dismissal or termination of employment or such lesser disciplinary action as the facts may warrant, including suspension without pay or censure.
6. In the case of any other member of the College community who shall violate any provision of these rules, that person shall be dismissed, suspended, or censured by the President.

E. Procedures

Pending adjudication of the matter by the appropriate authorities (see below), members of the College community deemed to have violated these rules will be subject to immediate suspension from the College as determined by the President or the President's designee.

1. In the case of a trespasser or visitor who shall violate any provisions of these rules, the President or the President's designee shall inform the trespasser or visitor that the violator is not authorized to remain on the campus or other Union College property and direct that person to leave such premises. In the event of a failure or refusal to do so, the President or the President's designee shall cause the violator's ejection from such campus or property under the control of the College. Nothing in this subdivision shall be construed to authorize the presence of any such person at any time prior to such violation nor to affect that person's liability to prosecution for trespass or loitering as prescribed in the Penal Law.
2. In the case of a licensee or invitee, the President of the College or the President's designee shall inform the licensee or invitee that the person's license or invitation is withdrawn and direct that person to leave the campus or other property of Union College. In the event of a failure or refusal to do so, the President or the President's designee shall cause the ejection of the violator from such campus or property under the control of the College.
3. In the case of a student, charges for violation of any of these rules shall be presented, heard, and determined in accordance with the Procedural Guidelines for Adjudicating Against Individuals as set forth in the Student Conduct Code.
4. In the case of a faculty member, charges of misconduct in violation of these rules shall be made and heard before a committee, the majority of whom must be faculty members, that is appointed by the President. The President shall also appoint an impartial chairperson from the committee. The purpose of the committee is to ascertain the facts of individual cases and make recommendations to the President for ultimate disposition of the charges. It is recognized that the hearing need not conform to requirements of criminal or civil procedure and/or proof. The intent of the procedure is to provide the faculty member with a fair hearing before peers, to give that person the opportunity to respond to any charges, and to question any witnesses appearing before the committee. Within this framework, the committee chairperson may conduct the hearing and make necessary adaptations to fit particular circumstances. The faculty member may bring a member of the College community to the hearing as an adviser. The role of the adviser will be limited to consulting with the faculty member in the course of the hearing. The adviser will not be permitted to represent (speak for, take the place of, etc.) the faculty member during the hearing or cross-examine witnesses.
5. In the case of any staff member in violation of these rules, charges of misconduct in violation of these rules shall be made, heard, and determined in accordance with the Staff Manual.
6. In the case of any other member of the College community who shall violate any provision of these rules, charges of misconduct in violation of these rules shall be made, heard, and determined by the President or President's designee.

F. Enforcement

1. The President of the College shall be responsible for the interpretation and enforcement of these rules and shall designate the other administrative officers who are authorized to take action in accordance with such rules when required or appropriate to carry them into effect.
2. It is not intended by any provision herein to curtail the right of students, faculty, or staff to be heard upon any matter affecting them in their relations with Union College. In the case of any apparent violation of these rules by such persons who, in the judgment of the President or the President's designee, do not pose any immediate threat of injury to person or property, the President or the President's designee may make a reasonable effort to learn the cause of the conduct in question and to persuade those engaged therein to desist and to resort to permissible methods for the resolution of any issues which may be presented. In doing so, the President or the President's designee shall warn such persons of the consequences of persistence in the prohibited conduct including their ejection from any premises of Union College where their continued presence and conduct is in violation of these rules.
3. In any case where violation of these rules does not cease after such warning and in other cases of willful violation of such rules, the President or the President's designee shall cause the ejection of the violator from the campus and shall initiate disciplinary action as hereinbefore provided.
4. The President or the President's designee may apply to the public authorities for any aid which is deemed necessary to cause the ejection of any violator of these rules.

VII. POLICY AGAINST PROHIBITED DISCRIMINATION, HARASSMENT, MISCONDUCT (INCLUDING SEXUAL ASSAULT, STALKING, AND RELATIONSHIP VIOLENCE), BIAS ACTIVITY AND RETALIATION

NOTE: The campus-wide Sexual Misconduct Policy and associated Grievance Procedures for Students, Faculty, and Employees, which went into effect July 1, 2017, may be found at the Union College Title IX website and are incorporated by reference into the Faculty Manual. Paper copies of the Sexual Misconduct Policy may be obtained upon request by contacting the Title IX Coordinator. Information about a Faculty member's duties as a Responsible Employee is also found at the Union College Title IX website.

The Title IX Coordinator oversees all complaints of sexual harassment, sexual misconduct, and gender-based violence and monitors the progress of the cases brought to the attention of a responsible College official or employee. Additionally, the Title IX Coordinator ensures that students, faculty, and employees have access to information about, and educational programming related to, the prevention, recognition, and reporting of sexual harassment, sexual misconduct, and gender-based violence.

Union College takes all incidents of sexual harassment, sexual misconduct, and gender-based violence very seriously and is dedicated to providing an educational and work environment that is free from discrimination and harassment in any form. These principles, which are enforced by law, are woven into our mission statement and strategic plan and apply to our employment process, academic programs, and services to Union College students.

With the exception of sexual misconduct and sexual harassment complaints, any complaints involving prohibited discrimination, harassment, misconduct, bias activity, and/or retaliation will continue under the existing policies. The Policy Prohibiting Bias, Discrimination, Harassment, and Retaliation (other than sexual misconduct and sexual harassment) is currently being reviewed and updated; the revised version will separate out provisions relating to sexual misconduct and sexual harassment.

Policy Statement

Union College prohibits its faculty, administrators, staff, and students from engaging in any form of prohibited discrimination, harassment, or misconduct (including sexual assault, stalking, and relationship violence) and expects these individuals to refrain from committing acts of bias within the College's jurisdiction. The College also prohibits retaliation. Retaliation includes any conduct, whether or not workplace or employment-related, directed at someone because he or she opposed a discriminatory practice, made a complaint of discrimination, or participated in such an investigation, which might deter a reasonable person from making or supporting a charge of harassment or discrimination. In compliance with applicable federal, state, and local legislation, the College maintains processes to provide redress and remediation to individuals who believe they have been the victims of these acts. The College further identifies Title IX coordinators who oversee all Title IX complaints and take steps to identify and address any patterns or systemic problems that arise during the review of such complaints. Members of the College community

who have relevant information must cooperate with the College's investigations into prohibited discrimination, harassment, bias activity, or retaliation.

Overview

Union College's commitment to diversity and inclusiveness is grounded in providing an environment that is free from all prohibited discrimination, harassment, misconduct (including sexual assault, stalking, and relationship violence), bias activity, and retaliation. Union's commitment is intended to prevent negative actions that are directed at a member or group of the Union community because of that individual's or group's actual or perceived age, color, creed, disability, ethnicity, gender, gender identity or expression, marital status, national origin, race, religion, sexual orientation, military status, genetic predisposition, domestic violence victim status, and any other factors prohibited by applicable law.

Acts of prohibited discrimination, harassment, misconduct (including sexual assault, stalking, and relationship violence), and retaliation constitute violations of federal and state law. Although bias activity may not rise to the level of a federal violation, it is prohibited by state law. Union College equally condemns such activity and aims to respond to such incidents when they occur.

Accordingly, this policy prohibits all members of the College community from engaging in such prohibited discrimination, harassment, misconduct (including sexual assault, stalking, and relationship violence), bias activity, and retaliation, and sets forth an internal grievance process for presenting and responding to discrimination-related complaints, harassment complaints, reports of bias activity, and allegations of retaliation.

A. Prohibited Discrimination

Prohibited discrimination occurs when an employment or academic decision results in negative and/or different treatment of an individual based upon his or her race, color, sex (including pregnancy), religion, creed, national origin (including ancestry), citizenship status, physical or mental disability (including AIDS), age, marital status, sexual orientation, gender identity and expression, military status, genetic predisposition, domestic violence victim status, or any other protected category under applicable local, state, or federal law. Discriminatory conduct includes decisions in which the protected class status was the sole or a contributing factor.

The College encourages students and employees to report any perceived discrimination immediately using the procedures set forth in the College's Grievance Procedures to Address Allegations of Prohibited Discrimination, Harassment, Misconduct (including Sexual Assault, Stalking, and Relationship Violence), and Retaliation.

1. Definition of Sexual Discrimination

Sexual discrimination includes all forms of sexual harassment and/or sexual violence by employees, students, or third parties against employees, students, or third parties

B. Prohibited Harassment

This policy prohibits any form of unlawful harassment, by any member or group of the community, including harassment that creates a hostile environment against any employee or student because of race, color, sex (including pregnancy), religion, creed, national origin (including ancestry), citizenship status, physical or mental disability (including AIDS), age, marital status, sexual orientation, gender identity and expression, military status, genetic predisposition, domestic violence victim status, or any other protected category under applicable local, state, or federal law. Prohibited harassment consists of unwelcome verbal, visual, or physical conduct based on an individual's protected status where (1) an individual's acceptance or rejection of such conduct explicitly or implicitly forms the basis for an employment or educational decision affecting the individual; or (2) the conduct is sufficiently severe or pervasive so as to alter the terms, conditions, or privileges of the employee's employment or education, or otherwise create a hostile work or educational environment.

Union College is also committed to the free and vigorous discussion of ideas and issues, which the College believes will be protected by this policy. Union College is committed to protecting the academic freedom and freedom of expression of all members of the College community. This policy shall be applied in a manner that protects the academic freedom and freedom of expression of all parties to a complaint. Academic freedom and freedom of expression include but are not limited to the expression of ideas, however controversial, in the classroom, residence hall, and in keeping with different responsibilities, in workplaces elsewhere in the College community.

This policy applies to all persons who are enrolled or employed at Union College, whether they are on College property, are participating in a College-sponsored activity off-campus, or are otherwise interacting with co-workers or students off campus. The grievance procedures, described below, apply to situations in which both complainant and accused are enrolled or employed at Union College.

Situations which involve others, including applicants for admission or employment who believe they have been harassed by employees of Union College and employees of Union College who believe they have been harassed by contractors or vendors serving the College, will also be resolved through these procedures.

Supervisors, Department Chairs, Deans, Faculty members, and individuals holding similar positions at Union College with knowledge of situations in which harassment may exist shall take appropriate steps to deal with the matter according to College policy and procedures.

Once there is knowledge of harassing behavior, the College is effectively on notice. If, after consultation with the Chief Diversity Officer, the Complainant does not wish to pursue the complaint

further, the College may still need to respond by taking reasonable appropriate action, including conducting an investigation.

This policy and the grievance procedures for resolution of claims of harassment are only part of Union College's effort to prevent harassment in our community. In addition to spelling out steps for making and resolving complaints, the College will also endeavor to provide programs to raise the level of understanding concerning the nature of harassment and ways to prevent its occurrence.

1. Definition of Sexual Harassment

Sexual harassment is unwanted sexual advances, requests for sexual favors, and other gender-based verbal, visual, or physical conduct when such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment or education insofar as:

- Submission to or rejection of such conduct by an individual is used as the basis for affecting decisions about that individual's academic or employment future or for affecting participation in a College activity; or
- Such conduct has the purpose or effect of interfering with an individual's academic or professional performance or creating an intimidating hostile or demeaning employment or education environment.

Examples of conduct that may constitute sexual harassment include but are not limited to: abusive, or lewd language and/or suggestive jokes of a sexual nature; demands for sexual favors in exchange for other considerations; unwanted physical or verbal pursuit with a sexual theme (this includes repeated, unwelcome requests for dates); leering, suggestive, or insulting sounds and gestures; distributing, displaying, or discussing written or graphic material (e.g., calendars, posters, cartoons, websites) that are sexually suggestive or shows gender-based hostility; content in letters, notes, e-mail, or postings on social media sites that is sexual in nature, unwanted touching, brushing, patting, pinching, or attention to one's body; threats of, or deliberate, sexual assault or molestation. It is unlawful for males to sexually harass females or other males and for females to sexually harass males or other females.

2. Other Prohibited Harassment

Prohibited harassment on the basis of race, color, sex (including pregnancy), religion, creed, national origin (including ancestry), citizenship status, physical or mental disability (including AIDS), age, marital status, sexual orientation, gender identity and expression, military status, genetic predisposition, domestic violence victim status, or any other protected category under applicable local, state, or federal law includes behavior similar to sexual harassment such as:

- Epithets, derogatory slurs, off-color jokes, threats, or suggestive or insulting sounds;
- Derogatory posters, cartoons, drawings, emails, websites, and postings on social media; and
- Assault, unwanted touching, or blocking normal movement.

3. Definition of the Complaint Process

The College's complaint procedure provides for a prompt, thorough, and objective investigation of any claim of prohibited harassment, appropriate disciplinary action against an employee found to have engaged in prohibited harassment, and appropriate remedies for any victim of harassment. Employees are strongly urged to use the College's complaint procedure, set forth below under Grievance Procedures to Address Allegations of Prohibited Discrimination, Harassment, Sexual Misconduct (including Sexual Assault, Stalking, and Relationship Violence), and Retaliation.

4. Determination of Prohibited Harassment

The conduct alleged to constitute harassment under this policy shall be evaluated from the perspective of a reasonable person, considering all the circumstances, including the nature, frequency, intensity, location, context, and duration of the behavior in question.

In considering a complaint under this policy, the following understandings shall apply:

- Prohibited harassment must be distinguished from behavior which, even though unpleasant or disconcerting, is appropriate to the carrying out of certain instructional, advisory, or supervisory responsibilities.
- Instructional responsibilities require appropriate latitude for pedagogical decisions concerning the topics discussed and methods used to draw students into discussion and full participation.

C. Prohibited Misconduct (Including Sexual Assault, Stalking, and Relationship Violence)

1. Definition of Sexual Misconduct and Related Terms

State law defines various violent or non-consensual sexual acts as crimes. Additionally, Union has defined categories of sexual misconduct, as stated below, for which College disciplinary action may be imposed. Generally speaking, Union considers sexual assault violations to be the most serious, and therefore imposes the most severe sanctions, including termination of employment. However, Union reserves the right to impose any level of discipline, up to and including termination of employment, for any act of sexual misconduct, relationship violence, or sexual exploitation.

Acts of sexual misconduct and relationship violence may be committed by men against women, women against men, men against men, and women against women. The issue in any case is not the gender of the persons involved but the acts.

a. Sexual Assault

Sexual assault refers to any sexual penetration (anal, oral, or vaginal), however slight, with any object, or sexual intercourse by a man or woman upon a man or woman without consent. Sexual penetration includes vaginal or anal penetration by a penis, tongue, finger, or object or oral copulation by mouth to genital contact or genital to mouth contact.

b. Sexual Misconduct

Sexual misconduct refers to any intentional sexual touching, however slight, with any object by a man or woman upon a man or woman without consent. Sexual touching includes any bodily contact with the breasts, groin, genitals, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner. Sexual misconduct also includes any disrobing of another or exposure to another by a man or woman without effective consent.

c. Sexual Exploitation

Sexual Exploitation refers to a situation in which a person takes non-consensual or abusive sexual advantage of another, and situations in which the conduct does not fall within the definitions of sexual assault or sexual misconduct. Sanctions for sexual exploitation can vary greatly depending on the severity of the violation. Severe cases can involve termination of employment. Examples of sexual exploitation include, but are not limited to:

- Sexual voyeurism (such as watching a person undressing, using the bathroom or engaged in sexual acts without the consent of the person observed).
- Taking pictures or video or audio recording another in a sexual act, or in any other private activity without the consent of all involved in the activity, or exceeding the boundaries of

consent (such as allowing another person to hide in a closet and observe sexual activity, or disseminating sexual pictures without the photographed person's consent).

- Prostitution (such as selling or exchanging sexual acts for money or something else of value or benefit).
- Engaging in sexual activity with another person while knowingly infected with a sexually transmitted disease (STD) and without informing the other person of the infection.
- Administering drugs (such as "date rape" drugs) to another person without his or her knowledge or effective consent.

d. Relationship Violence

Includes the following violations:

Domestic Violence

Causing or attempting to cause physical or sexual assault or abuse, placing another in reasonable fear of serious bodily injury, restraining another's liberty or freedom of movement, or stalking, where such conduct is directed against the complainant by his or her current or former spouse or intimate partner or any other person from whom the complainant is protected under federal or state law.

Dating Violence

Causing or attempting to cause physical or sexual assault or abuse, placing another in reasonable fear of serious bodily injury, restraining another's liberty or freedom of movement, or stalking, where such conduct is directed against the complainant by someone with whom he or she is or has been in a romantic or intimate relationship. Whether there was such a relationship will be gauged by its length, type, and frequency of interaction.

e. Stalking

Repeated acts or communications directed toward another person, including following the other person without proper justification, which places the other person in reasonable fear of bodily injury or which causes substantial emotional distress. Stalking includes, but is not limited to, repeatedly engaging in contact, face-to-face communication, telephone calls or messages, text messages, emails, letters, the giving of unwanted gifts, threatening or obscene gestures, surveillance, following, trespassing, or vandalism.

f. Effective Consent

Effective consent means words or actions that show a knowing and voluntary agreement to engage in mutually agreed upon sexual activity. Effective consent cannot be gained by force, by ignoring or acting in spite of the objections of another, or by taking advantage of the incapacitation of another where the accused knows or reasonably should have known of such incapacitation. Effective consent is also absent when the activity in question exceeds the scope of effective consent previously given. In addition, in New York State, a minor (meaning a person under the age of 17 years) cannot consent to sexual activity. This means that sexual contact with a person less than 17 years old is a crime as well as a violation of this policy even if the minor wanted to engage in the sexual act.

g. Force

Force means physical force, violence, threat, intimidation, or coercion or by compelling or inducing another person to engage in a sexual act by means of: (i) pressuring, cajoling, or arguing with the individual; (ii) instilling a fear of dire consequences (e.g., by exposure of a secret, fact, or falsity as fact), such as ridicule, if a demand is not complied with; and/or (iii) plying the individual with alcohol.

h. Incapacitation

Incapacitation means the physical and/or mental inability to make informed, rational judgments. States of incapacitation include, without limitation, sleep, blackouts, and flashbacks. Where alcohol (or another drug) is involved, incapacitation is determined by how the alcohol (or other drug) consumed impacts a person's decision making capacity, awareness of consequences, and ability to make informed judgments.³⁷ The question is whether the accused knew, or a sober, reasonable person in the position of the accused should have known, that the complainant was incapacitated. Because incapacitation may be difficult to discern, students are strongly encouraged to err on the side of caution; i.e., when in doubt, assume that another person is incapacitated and therefore unable to give effective consent. Being intoxicated or drunk is never a defense to a complaint of sexual misconduct under this policy.

D. Retaliation

The College will not tolerate retaliation of any kind against anyone who opposes a discriminatory practice, makes a good faith complaint about harassment and/or discrimination, or furnishes information or participates in any manner in an investigation of such a complaint. Retaliation includes any conduct, whether or not workplace or employment-related, directed at someone because he or she opposed a discriminatory practice, made a complaint of discrimination, or participated in such an investigation, which might deter a reasonable worker from making or supporting a charge of harassment or

³⁷ Sokolow, Brett A., Lewis, W. Scott, Schuster, Sandra K., *NCHERM Institute on Responding to Campus Sexual Misconduct*. 2010, p.49

discrimination. Retaliation is unlawful and will not be tolerated. Any individual who believes that he or she has been subject to retaliation should file a complaint using the College’s complaint procedure, set forth below under Grievance Procedures to Address Allegations of Prohibited Discrimination, Harassment, Misconduct (including Sexual Assault, Stalking, and Relationship Violence), and Retaliation.

1. Social Media and Networking

Although the College respects the right of students and employees to use social networking sites and similar forms of electronic expression, any such use of electronic expression to harass or discriminate is unlawful and prohibited by this policy as well as the College’s Use of IT Resources Policy.

E. Grievance Procedures to Address Allegations of Prohibited Discrimination, Harassment, Misconduct (Including Sexual Assault, Stalking, and Relationship Violence), and Retaliation

Union College has adopted an internal process to provide for the prompt and fair resolution of complaints alleging a violation of Union’s non-discrimination policy, policy against unlawful harassment, and policy against retaliation. These procedures cover allegations of unlawful discrimination and harassment in employment on the basis of race, color, sex (including pregnancy), religion, creed, national origin (including ancestry), citizenship status, physical or mental disability (including AIDS), age, marital status, sexual orientation, gender identity and expression, military status, genetic predisposition, domestic violence victim status or any other protected category under applicable local, state, or federal law. These procedures also cover allegations of retaliation. Retaliation includes any conduct, whether or not workplace or employment-related, directed at someone because he or she opposed a discriminatory practice, made a complaint of discrimination, or participated in such an investigation, which might deter a reasonable person from making or supporting a charge of harassment or discrimination.

1. Informal Resolution

Union encourages any employee who believes that he or she has experienced unlawful discrimination, harassment or retaliation (the “Complainant”) to attempt to resolve the issue informally. To this end, employees may bring their concerns to the co-worker directly involved to the immediate supervisor, or department head.

2. Formal Resolution

If the Complainant remains dissatisfied with the resolution of his or her concerns after attempting to resolve them informally or if the Complainant does not feel comfortable attempting to resolve them

informally, the Complainant should report the behavior immediately to their immediate supervisor, Department Head, or the Office of Diversity and Inclusion (located in Feigenbaum Hall).

- A complaint should be made immediately. While reporting such incidents may be a difficult personal experience, allowing discrimination, harassment, or retaliation to continue will most certainly lead to less desirable outcomes. The College can only resolve those complaints of which it becomes aware, so employees are expected to promptly report complaints.
- Any supervisor or Department Head who becomes aware of possible discrimination, harassment, or retaliation (either through observation or through a report) must immediately notify the Office of Diversity and Inclusion

a. Procedures for Formal Resolution

- A complaint may be verbal or may be submitted in writing. It should include a description of the allegation(s) of discrimination, harassment and/or retaliation and should set forth specific facts in support of the allegation(s).
- A fact finding investigation, as may be appropriate, shall be conducted by the Chief Diversity Officer or at his or her direction promptly following receipt of the complaint. This process affords the Complainant and the person(s) against whom the allegation(s) of discrimination, harassment, or retaliation have been made an opportunity to submit information and documentation regarding the complaint allegations.
- The fact finding investigation will be completed within **thirty (30) working days** from the time the investigation commences and the fact finder will provide a written report to the Chief Diversity Officer.
- Within **ten (10) working days** from receipt of the report (or completion of the investigation by the Chief Diversity Officer), the Chief Diversity Officer will report the outcome of the investigation in writing to the Complainant and the Respondent.
- If the Chief Diversity Officer determines that any of the allegations raised by the Complainant warrant action, he or she will set forth what actions Union must take, including, for example, contacting the Vice President for Academic Affairs to initiate a disciplinary action against a Faculty member in accordance with the relevant provisions of the Faculty Manual (such as Section II, Article XIII Procedures for Dismissal and Sanctions), or contacting the Chief HR Officer in accordance with the Administrative Manual and Staff Handbook, to address the substantiated concern(s), to the extent consistent with the confidentiality accorded to College personnel actions. *NOTE:* if a complaint that warrants action is directed against a member of the Senior Staff, the Chief Diversity Officer shall notify the President for further action.

- At all times, the parties can entertain informal resolution options to resolve any issues. Union may suggest that the parties participate in a mediation program.
- Although Union will make reasonable efforts to comply with these timelines, circumstances such as College breaks, witness unavailability, and other factors may justify an extension to a time reasonable. If an extension of time is needed, the parties will be notified.

3. Abuse of Grievance Procedures

It is a violation of these procedures to file a discrimination, harassment, or retaliation complaint for the purpose of injuring the reputation or causing harm to another person. Without minimizing the injury that can be suffered by the Complainant, the College also recognizes that the filing of a discrimination or harassment complaint can have serious consequences for the person accused. That person, too, has rights that the policies on discrimination, harassment, and retaliation must preserve and protect. Therefore, any person who abuses these procedures by knowingly filing a false complaint will be subject to discipline if the Chief Diversity Officer determines that the complaint was filed in bad faith. This provision is not meant in any way to discourage legitimate complaints.

4. Confidentiality

Complainants, those accused, and witnesses who participate in these procedures are bound by rules of confidentiality. The Office of Diversity and Inclusion will preserve the confidentiality of information provided in connection with a grievance to the extent possible, consistent with the goals of prompt and thorough investigation and resolution as well as compliance with the law.

5. Appeal Procedures

If Complainant or the accused party wishes to appeal any aspect of the decision (for example, the decision to initiate disciplinary action in accordance with applicable provisions of the Faculty Manual, Administrative Manual, or Staff Handbook), he or she may do so by filing a written notice with the appropriate Vice President within **ten (10) working days** of the date of the decision.

- An appeal will be considered only if the party specifies with particularity the errors in the determination (such as inaccurate findings of fact or incorrect conclusions of law), the correction of which would change the outcome of the determination.
- Within **forty-five (45) working days** from the date of the filing of an appeal, the Vice President will uphold or modify the determination of the Chief Diversity Officer. The Vice President's decision is final.

F. Bias Activity (Including Bias Incidents and Hate Crimes)

Bias activity includes bias incidents as defined below and hate crimes as defined by law. Such activity is that which a reasonable person could conclude is directed at a member or group of the Union College community because of that individual's or group's actual or perceived attribute of diversity. Such incidents may not rise to the level of prohibited discrimination or harassment, but are prohibited by state and local law.

This policy covers the response of the Office of Diversity and Inclusion to bias activity that may occur at Union College. This Office will advise the College community of the occurrence of bias incidents and crimes, provide support-related resources to individuals who have experienced bias activity, and develop programs that will help to prevent or eliminate bias activity.

1. What Is A Bias-Related Crime?

New York State Penal Law Section 485, also known as the "Hate Crimes Act of 2000," sets forth the definition of a hate or bias-related crime. Specifically, a person commits a hate or bias-related crime when he or she commits a specified offense and either:

- Intentionally selects the person against whom the offense is committed or intended to be committed, in whole or in substantial part, because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation of that person, regardless of whether the belief or perception is correct, or
- Intentionally commits the act or acts constituting the offense, in whole or in substantial part, because of a belief or perception regarding the race, color, national origin, ancestry, gender, religion, religious practice, age, disability, or sexual orientation of a person, regardless of whether the belief or perception is correct.

2. What Is A Bias-Related Incident?

Bias-related incidents are defined as behavior that constitutes an expression of hostility against the person or property of another because of the targeted person or group's actual or perceived race, color, national origin, ancestry, gender, religion, religious practice, age, disability, sexual orientation, or gender identity or expression, but does not rise to the level of a hate crime. They include but are not limited to:

- Spray-painting homophobic language in a public space of a residence hall
- Yelling derogatory comments about women in the Campus Center
- Hanging posters that mock persons with disabilities

G. Grievance Procedure to Address Allegations of Bias Activity (Including Bias Incidents and Hate Crimes)

1. Initiating a Report of Bias Activity

Faculty, administrators, and staff are encouraged to report bias activity, including hate crimes, either experienced directly or observed, that occur at the College or in the course of a College activity, to the Office of Diversity and Inclusion. Faculty, administrators, and staff are also encouraged to comply with the Chief Diversity Officer's requests and that Office's procedures for resolution. Reports may also be made to a Bias Incident Team member. Referral to the Bias Incident Team is appropriate even when the person believed to have committed the act cannot be identified or if the reporting person does not wish to pursue campus disciplinary or criminal charges. The Bias Reporting Team members include:

- Director of Campus Safety, Chris Hayen, at x6358 (518-388-6358) email: hayenc@union.edu
- Director of Counseling Center, Marcus Hotaling, at x6161 (518-388-6161) email: hotalinm@union.edu
- Director of Multicultural Affairs, Jason F. Benitez, at x6030 (518-388-6030) email: benitezj@union.edu
- Chief HR Officer, Eric Noll, at x6108 (518-388-6108) email: nolle@union.edu

Reports of Bias Activities that may also constitute prohibited discrimination, harassment, or retaliation must also be reported immediately to the Chief Diversity Officer for appropriate resolution pursuant to the College's Grievance Procedures to Address Allegations of Prohibited Discrimination, Harassment, Misconduct (including Sexual Assault, Stalking, and Relationship Violence), and Retaliation section.

2. Procedures for Responding To Bias-Related Incidents And Crimes

The following procedures, to the extent reasonably practicable under the circumstances, are to be applied upon an incident occurring:

- Determine whether emergency medical treatment is necessary. If medical attention is necessary, immediately contact 911 and Campus Safety (388-6911 or 388-6178) for assistance.
- The Campus Safety Officer responding to the bias-related activity is to, if possible, photograph physical injuries, offensive graffiti, and evidence of vandalism. In addition, he or she should record where and when the activity occurred and document names of witnesses if applicable.

Further, the Campus Safety Officer should document detailed information about the perpetrator(s), if available. He or she should also retain any physical evidence of the incident, if possible, or, in the case of a crime, turn the incident over to public law enforcement officials. Any and all reports of this nature will be retained in the Dean of Students Office.

- Campus Safety Officers should also, if they suspect that a bias-related crime has occurred, report the crime to the appropriate law enforcement officials and cooperate with those officials in its investigation of the incident(s).
- All bias-related activity shall be considered confidential, to the extent permitted by law. Every reasonable effort will be made by Union College to preserve any personal information obtained during the investigation or adjudication of the matter. However, maintaining full confidentiality may be challenging in this context.

3. Support Services Available

Affected members of the Union College community will be referred to support services and resources and may need support in order to cope with the incident and life in the aftermath.

4. Additionally, You Should Know

Union prohibits retaliation against any person who files a complaint of a bias activity, participates in an investigation, or opposes an alleged bias activity.

It is a violation of these procedures to file a bias activity complaint for the purpose of injuring the reputation or causing harm to another person. Without minimizing the injury that can be suffered by the Complainant, the College also recognizes that the filing of a bias activity complaint can have serious consequences for the person accused. That person, too, has rights that must be preserved and protected. Therefore, any person who abuses these procedures by knowingly filing a false complaint will be subject to discipline if the Chief Diversity Officer determines that the complaint was filed in bad faith. This provision is not meant in any way to discourage legitimate complaints. Sexual Misconduct Policy, TITLE IX Coordinator, & Responsible employees

VIII. SEXUAL MISCONDUCT POLICY

A. The Sexual Misconduct Policy

The Sexual Misconduct Policy and associated Grievance Procedures for Students, Faculty, and Employees may be found at: www.union.edu/titleix

Paper copies of the policy may be obtained upon request by contacting the Title IX Coordinator.

B. Title IX Coordinator

Melissa Kelley, EdD, CHES
403E Reamer Campus Center
807 Union Street
Schenectady NY 12308
Phone: (518) 388-6865 office
Email: kelleym2@union.edu

The Title IX Coordinator oversees all complaints of sexual harassment, sexual misconduct or gender-based violence and monitors the progress of the cases brought to the attention of a responsible College official or employee. Additionally, the Title IX Coordinator ensures that students, Faculty, and employees have access to information about and educational programming related to the prevention, recognition, or reporting of sexual harassment, sexual misconduct and gender-based violence.

Union College takes all incidents of sexual harassment, sexual misconduct, and gender-based violence very seriously and is dedicated to providing an educational and work environment that is free from discrimination and harassment in any form. These principles, which are enforced by law, are woven into our mission statement and strategic plan and apply to our employment process, academic programs, and services to Union College students.

C. Responsible Employees

In general, most College employees do not have legally protected confidentiality. Under Title IX, a College is required to take immediate and corrective action if a Responsible Employee knew or, in the exercise of reasonable care, should have known about sexual misconduct, relationship violence, sexual harassment, or stalking. The College requires that all Responsible Employees share a report of misconduct with the Title IX Coordinator or the Director of Campus Safety.

A Responsible Employee includes any employee who:

- Has the authority to take action to redress the harassment;
- Has the duty to report to appropriate school officials sexual harassment or any other misconduct by students or employees; or
- A student could reasonably believe has the authority or responsibility to take action.

Using this lens, employees with supervisory and leadership responsibilities on campus are considered Responsible Employees. This includes, for example, Faculty, coaches, administrators, Resident Directors, and Resident Advisors.

IX. ETHICS AND CONDUCT REQUIREMENT TO REPORT INSTANCES OF SEXUAL MISCONDUCT AGAINST STUDENTS

The Student Handbook contains the College’s Sexual Misconduct Policy, which governs instances of sexual misconduct in which a student is the complainant. This policy outlines the responsibilities of faculty members to report possible instances of sexual misconduct against students.

Links to the Sexual Misconduct Policy, “FAQs for Faculty, Coaches, and Administrators,” and information about resources for victims of sexual assault are available from the Dean of Students’ Office. The policy statement of reporting requirements for faculty members is available within the Sexual Misconduct Policy, in Section III.C, entitled “Privacy & Confidentiality/ Responsible Employees”. The FAQs for Faculty, Coaches, and Administrators provide comprehensive information on reporting requirements as well as resources for assisting potential victims.

X. DISPUTE RESOLUTION

(Effective Oct. 2006)

A. General Problem Resolution Process

To foster and promote the best possible employer and employee relationship, there is a procedure available to you for review of work-environment related issues falling outside the purview of existing administrative policies governing allegations of unlawful harassment, sexual harassment, or discrimination. It is usually in the best interest of both the College and the employee to resolve problems as soon as possible at the lowest possible administrative level. In order that employees may be assured fairness in the consideration of such problem(s), this process of appeal and review, without prejudice, to higher levels of authority has been established. The process is available only to employees. Non-College employees may not attend any of the meetings. An employee may have another College employee accompany or represent him or her at the meetings.

The dispute resolution process does not apply to issues concerning compensation and matters that are beyond the control or the jurisdiction of the College. Allegations of unlawful harassment, sexual harassment or discrimination should be referred to the Office of Diversity and Inclusion.

Employee complaints or problems should be addressed in the following manner. You may confer with Human Resources at any point during the resolution process.

The employee should first attempt to resolve the issue informally by discussing it with his or her Department Chair. Satisfactory resolution can usually be achieved at this level.

If the matter is not resolved to the employee's satisfaction informally, the employee should meet with the responsible Dean. The employee should write up or be prepared to speak about:

- the specific complaint
- the facts related to the complaint and any other helpful information
- the remedy or resolution sought

The Dean will consider and evaluate the information, discuss the matter with the employee and Department Chair if necessary, and respond in writing.

The dispute resolution process is not a legal forum. Employees who wish to use legal counsel may do so within the judicial system. Use of the dispute resolution process shall not be construed as the waiver of any right that would be provided to an employee under the jurisdiction of outside agencies, including courts of law. The filing of a complaint or the use of this process does not postpone any deadlines for filing of complaints with outside agencies. The College reserves the right to discontinue the complaint resolution process should an employee commence a similar complaint with a state or federal court or agency.

XI. REPORTING FRAUD, DEFALCATION (EMBEZZLEMENT) OR ILLEGAL ACTIVITY BY EMPLOYEES, DIRECTORS, OFFICERS, OR VOLUNTEERS

Union College seeks to achieve its mission as an educational institution by conducting its affairs ethically and in full compliance with all federal, state, and local laws. Union faculty, administrators, and staff are expected to adhere to high standards of professional and ethical conduct in carrying out their duties. Responsibilities and decision-making are distributed throughout the organization, and thus the College recognizes the need for review procedures for compliance with laws and regulations. As part of that process, the College will protect from retaliation any individual employee, director, officer, or volunteer who has direct knowledge of fraud, defalcation (embezzlement), or illegal actions on the part of a supervisor or employee and communicates that information in good faith for the purpose of correcting the conduct, or while participating in an investigation, as outlined below.

Allegations of defalcation (embezzlement) or actions contrary to law including, but not limited to, theft, fraud, coercion, or conversion (“improper conduct”), based on first hand observations or direct evidence, should be brought to the attention of the Vice President for Administration and Finance. The allegation of improper conduct must be reported as soon as possible and no later than one (1) year after the event(s) giving rise to the allegation has occurred unless there is a good cause to explain the delay. The Vice President for Administration and Finance (or his or her designee) will document the allegation, seek appropriate assistance and investigate the facts. Care will be taken to maintain confidentiality, to the fullest extent permitted by law and consistent with the need to conduct an investigation, throughout the investigatory phase. The results of this investigation will be brought to the attention of the President and the Audit Committee of the Board of Trustees, and appropriate action, if any, will be taken. The College will take steps to ensure that an individual who comes forward in good faith to report a violation or suspected violation shall not suffer intimidation, harassment, discrimination, or other retaliation or, in the case of an employee, adverse employment consequences at the College provided:

1. The individual provides the initial information in a good faith belief that improper conduct has occurred;
2. The individual has not deliberately obtained evidence to which he/she does not have a right to access;
3. The individual must be truthful and cooperative with the Vice President for Administration and Finance or his or her designee to whom he or she is making a report of improper conduct.

However, the College reserves the right to distinguish between retaliation and ongoing performance issues or disciplinary actions related to misconduct by the “whistleblower.”

Alternative courses of action have been devised for situations involving the key individuals responsible for carrying out this policy. Allegations of defalcation (embezzlement) or actions contrary to law including, but not limited to, theft, fraud, coercion, or conversion (“improper conduct”), against the Vice President for Administration and Finance should be brought directly to the President. Allegations of defalcation (embezzlement) or improper conduct against the President should be brought to the Vice President for Administration and Finance, who must consult with the chairman of the Audit Committee of the Board of Trustees.

XII. CONSENSUAL RELATIONSHIPS

Union College discourages in the strongest possible terms all sexual or romantic relationships between students and faculty. Such relationships violate the standards of common behavior of the teaching profession and the proper role of a faculty member, and are inconsistent with the mission of the College. Such relationships are more than private conduct; they affect the entire academic community that the professor and student share with other faculty and students. A faculty member in a supervisory, evaluative, advisory or other pedagogical role involving a student with whom he or she has had or is having a sexual or romantic relationship must make the relationship known to the Dean of the Faculty; the faculty member will immediately be removed from that role.

Sexual or romantic relationships with a student carry the risk of damaging the student's educational experience and the faculty member's career. In any liaison with a faculty member, voluntary consent by the student involved is considered suspect; mutual consent will not provide immunity if a complaint is brought by the student against the faculty member.

XIII. DRUG-FREE WORKPLACE AND DRUG/ALCOHOL ABUSE POLICY

The abuse of alcohol and drugs is a social problem that has eroded societal well-being. Drug and alcohol abuse can prevent individuals from developing appropriate learning and problem solving skills, has contributed to the breakdown of personal and family relationships, has increased accident and suicide rates, and has negatively impacted the workplace through reduced productivity, physical/mental impairment, and increased absenteeism. Abuse of drugs or alcohol can jeopardize continued employment and create a health risk for the user, and a safety risk for the user, co-workers and other members of the College community.

A. Prohibitions and Sanctions

The College strictly prohibits the unlawful possession, manufacture, distribution, dispensation or use of a controlled substance or alcohol by an employee on College property, in College vehicles, or as part of a College-sponsored program off campus. The College may require drug and/or alcohol testing when a reasonable suspicion exists that any employee is under the influence of alcohol or any illegal drug, intoxicant, or controlled substance while on the job, or is otherwise in violation of this policy. See Reasonable Suspicion for Alcohol or Drug Testing Policy.

Employees whose work performance is impaired as a result of use or abuse of drugs or alcohol (either on or off campus); who illegally use or abuse drugs or alcohol on campus or on College business; who violate any provision of the College's employment policies or who have been convicted of violating any criminal drug statute while on College property or while participating in a college-sponsored program off campus are subject to disciplinary action. Disciplinary action may include termination of employment and referral to law enforcement authorities. Disciplinary action and/or required participation in a rehabilitation program as determined by the Employee Assistance Program (EAP) will be determined and implemented by the Dean of Faculty in consultation with the Director of Human Resources (in the case of Faculty) and by the respective Vice President and Director of Human Resources (in the case of administrators, staff or student workers). Any such actions will be in compliance with the Faculty Manual, Administrator Manual, Staff Manual or Student Handbook.

Local and federal laws also prohibit the unlawful use, manufacture, possession, control sale and dispensation of any illegal narcotic or dangerous drug. Under the requirements of the Drug Free Schools and Communities Act, institutions of higher education must provide employees with notice of applicable state and federal sanctions for unlawful possession or distribution of illicit drugs and alcohol. Attached are the applicable New York State and federal legal sanctions. The College cooperates fully with law enforcement authorities. Violations of the College Drug & Alcohol Abuse policy which are also violations of federal or local law may be referred to the appropriate law enforcement agencies. In such situations, cases may proceed concurrently at the College and in the criminal justice system.

In accordance with College policy, for various social events with alcohol (i.e. Minerva Event or

“Academic Social Events”), if an employee assumes the role of “responsible person” then he or she should manage the event in accordance with the requirements of the Social Events with Alcohol policy and NYS law. Requirements include that individuals under age 21 and intoxicated persons must NOT be served. Someone arriving in an intoxicated condition (even if 21 years of age or older) must be denied entrance. The amount of beer and wine and non-alcoholic beverages made available must be in proportion to the number of guests who will be above and below the age of 21. As such, it is incumbent upon the “responsible person” to ensure that those drinking or being provided with alcohol are of legal drinking age. Employees attending a college social event with alcohol, where the employee is not considered the event’s “responsible person”, are encouraged to alert the appropriate “responsible person” should the employee observe an intoxicated student or an underage student drinking alcohol.

B. Condition of Continued Employment

As a condition of continued employment, each faculty member, administrator, staff member and/or student worker will abide by the terms of this policy and will notify the Dean of Faculty (in the case of faculty) and the Director of Human Resources (for administrators, staff or student workers) no later than five days after any conviction for a criminal drug statute offense or alcohol offense committed on College property or as part of a College-sponsored program off campus. Failure to comply with these conditions will be grounds for disciplinary action.

C. Counseling, Treatment and/or Rehabilitation

College employees have available counseling and treatment services through the College health insurance programs, the Employee Assistance Program, and other local agencies/programs. Student employees may utilize Health Services, the Counseling Center or any of the local agencies/programs.

Periodically, drug and alcohol abuse information is distributed and training sessions are held. Early diagnosis and treatment of drug and alcohol abuse is in the best interests of all College employees. College employees concerned about drug or alcohol abuse are encouraged to consult with Human Resources.

| | | |
|----------------|---|--------------|
| Alcohol Abuse: | Wellness Corp. -Employee Assistance Program | 800-828-6025 |
| | Alcoholics' Anonymous | 242-4989 |
| | Alcoholism and Substance Abuse Council | 346-4436 |
| | Conifer Park | 399-6446 |
| | Ellis Hospital Alcoholism Program | 386-3300 |
| Drug Abuse: | Wellness Corp. -Employee Assistance Program | 800-828-6025 |
| | Alcoholism and Substance Abuse Council | 346-4436 |
| | Bridge Center | 346-1277 |
| | Carver Community Counseling Services | 382-7838 |

This policy implements the Drug Free Workplace Act (41 U.S.C. 701) and the Drug Free Schools and Communities Act (20 U.S.C. 1145g). The policy is effective August 1, 2010.

Summary of Laws and Sanctions

ALCOHOL

| It is illegal in New York State: | Potential Sanctions |
|--|---|
| for anyone under the age of 21 to possess alcohol with the intent to consume. | <i>Violation can result in up to a \$50 fine, and/or completion of an alcohol awareness program and/or up to 30 hours of community service.</i> |
| to sell alcohol to anyone under 21, to anyone who is already intoxicated, or to anyone who is habitually intoxicated. | <i>Violation can result in up to a \$1,000 fine and/or up to one year in jail.</i> |
| to use a false ID or to provide someone else with a false ID to buy alcohol. | <i>An employee can be fined up to \$100 and/or required to complete a alcohol awareness program and/or provide up to 30 hours of community service. If the false ID is a driver's license, the license may also be suspended for 90 days. Note: Higher level charges for criminal possession of a forged instrument or criminal impersonation penalties can include: for a misdemeanor a fine up to \$1,000 and/or up to one year in jail; or could lead to a felony conviction and sentence.</i> |
| to misrepresent one's age or that of anyone else under 21. | <i>The penalty is a \$200 fine and/or up to five days in jail.</i> |
| to drive with ability impaired (more than .05 up to .07 BAC) or while intoxicated (.087 BAC or more, or other evidence). | <i>Fines, jail and license action are among the penalties, depending on the circumstances.</i> |
| to drink and drive if under age 21. | <i>Under New York's Zero Tolerance law, for even small amounts of alcohol, a license is suspended for six months or revoked for one year.</i> |

D. Other Drugs

Federal and New York State laws provide many legal sanctions for the unlawful possession or distribution of controlled substances. These sometimes include severe criminal penalties such as fines and/or imprisonment. The severity of the penalty depends upon the nature of the criminal act and the identity and amount of the illicit drug involved. Some examples are:

| | Potential Sanctions |
|------------------|--|
| Cocaine | <i>Possession of even 500 mg. of cocaine can result in a maximum sentence of seven years in prison.</i> |
| LSD | <i>Possession of as little as 1 mg. can result in up to 15 years in prison.</i> |
| Marijuana | <i>Possession of as little as 25 g. can result in a maximum of three months in jail or a \$500 fine.</i> |

XIV. SMOKE/TOBACCO FREE POLICY

(Effective July 1, 2016)

The College strives to comply in good faith with the Family Educational Rights and Privacy Act (FERPA); please see the Union College Annual FERPA Disclosure Policy and Statement regarding Student Rights and Confidentiality found in the Student Handbook. In accordance with the College's statutory obligations and the College's policies only those members of the faculty or administration who, for purposes in keeping with the academic objectives of the institution, must refer to student records shall normally have access to the files in the Admissions Office, the Office of the Dean of Students, the Office of the Registrar, the Office of Student Aid, the Alumni Office, or the Career Planning and Placement Office.

Union College recognizes that smoking, breathing second hand smoke, or using tobacco products constitutes a significant health, safety, and environmental hazard for students, employees, visitors and campus facilities. The College is committed to promoting health, wellness, and prevention within its community, as well as providing a healthy learning and working environment for administration, faculty, staff, students, visitors, contractors, and vendors.

All areas of the College campus, all campus properties, and all campus vehicles are designated as smoke/tobacco free.

For the purpose of this policy, smoking and tobacco use is defined as using any type of tobacco product including, but not limited to, cigarettes (commercial, handmade, or electronic), cigars, cigarillos, pipes, hookahs, vape pens, oral tobacco (spit and spitless, smokeless, chew, snuff), or any other similar smoking material or delivery device including anything that simulates smoking.

The Smoke/Tobacco Free Policy strictly prohibits:

1. Smoking or the use of any other tobacco product in all College campus buildings, on the College grounds, and on properties owned, leased, or rented by the College.
2. Smoking and the use of any tobacco product in all College owned, leased, or rented vehicles.
3. The sale of tobacco products on campus.
4. The free distribution of tobacco products on campus.
5. Tobacco advertisements in College-produced (run) publications.

Organizers and attendees at events, such as conferences, meetings, public lectures, social and sporting events, using College facilities, will be required to abide by the College's Smoke/Tobacco Free Policy.

Organizers of such events are responsible for communicating and enforcing this policy. Effective implementation and success of the Smoke/Tobacco Free Policy depends upon the courtesy, respect, thoughtfulness, consideration and cooperation of all smoking and non-smoking members of the Union College community. All members of the community are responsible for implementation and enforcement of this policy. All members of the community are encouraged to advise other employees, students, and visitors about the policy, suggest to anyone smoking that they not smoke on the campus or on college-owned properties, and, when appropriate, direct smokers off the campus. Individuals violating this policy will be subject to appropriate disciplinary action and should be reported to an appropriate authority (supervisor, manager, Campus Safety, Human Resources, or Student Affairs administration).

Contact: The Chief of Staff and Chair of the Smoke/Tobacco Free Committee

XV. PERSONAL RECORDS AT UNION COLLEGE

A. Student Records at Union College

The College strives to comply in good faith with the Family Educational Rights and Privacy Act (FERPA); please see the Union College Annual FERPA Disclosure Policy and Statement regarding Student Rights and Confidentiality found in the Student Handbook. In accordance with the College's statutory obligations and the College's policies only those members of the faculty or administration who, for purposes in keeping with the academic objectives of the institution, must refer to student records shall normally have access to the files in the Admissions Office, the Office of the Dean of Students, the Office of the Registrar, the Office of Student Aid, the Alumni Office, or the Career Planning and Placement Office.

Within these general guidelines, the College responds to inquiries from persons not authorized to inspect student records in the following manner:

- Requests for transcripts of the official academic record must originate with the student, or be released by the student.
- Requests by an accrediting agency evaluating the College are honored, with a reminder of the confidentiality of the material.
- Unless a student has signed a release form, the College will not accede to routine requests from federal and state agencies other than those conducting an approved accrediting or auditing visit, except in those cases simply involving an affirmation of a student's date and place of birth, attendance at Union, and status as a degree candidate or recipient of a degree.
- Inquiries concerning the financial position of a student addressed to either the Office of Student Aid or to the Finance Office will be answered only when it is clear that the inquiry came as a request for credit by the student or as a result of publicly-assumed obligations.

In keeping with these stipulations, the College exercises normal precautions in monitoring both its permanent and transient files on students. No records are maintained which reflect either the political activities or beliefs of students.

In those cases where the public media seek information about a student, the College volunteers no details. Faculty and administrators who may be approached should refer all such inquiries to the Director of Public Relations who, at his or her discretion, may answer relevant questions, although it is assumed that qualitative assessments of a student will rest solely on publicly known data within the purview of the College.

In any case not anticipated by these provisions, the College responds in a manner compatible with the best interests of both the student and the institution.

B. Requests from Outsiders for Faculty Records

Faculty and administrators who receive inquiries from outside the College regarding faculty records, especially those from the FBI, CIA, and similar agencies, should refer the inquiry to the President or Dean of the Faculty. Members of the faculty who wish the College to provide references for any purpose should send a statement permitting the President or Dean of the Faculty to comply with the request.

XVI. INFORMATION SECURITY POLICY AND PLAN

A. Preamble

In order to protect critical information and data, and to comply with Federal Law (The Financial Services Modernization of 1999 – also known as Gramm Leach Bliley (GLB) 15 U.S.C. §6801), Union College’s Information Technology Services (ITS) proposes certain practices in the College information environment and institutional information security procedures. While many of these practices mostly affect ITS, some of them will impact diverse areas of the College including, but not limited to, the Finance Office, the Office of the Registrar, Colleges Relations, Dean of Students Office, the Library, the Bookstore, Admissions, and many third party contractors, including dining services. The goal of this document is to define the College’s Information Security Policy and Plan, to provide an outline to assure ongoing compliance with federal regulations related to the Policy, and to position the College for likely future privacy and security regulations.

B. Gramm Leach Bliley (GLB) Requirements

GLB mandates that the College appoint an Information Security Plan Coordinator, conduct a risk assessment of likely security and privacy risks, institute a training program for all employees who have access to covered data and information. Oversee service providers and contracts, and evaluate and adjust the Information Security Policy and Plan periodically.

C. Information Security Plan Coordinator

In order to comply with GLB, ITS has designated an Information Security Plan coordinator. This individual will work closely with the College’s attorney and Risk Manager. The Interim Information Security Plan Coordinator is presently the Chief Information Officer.

The Coordinator, working with other members of the College administration, must help the relevant offices of the College identify reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information; evaluate the effectiveness of the current safeguards for controlling these risks; design and implement a safeguards program; and regularly monitor and test the program.

D. Risk Assessment and Safeguards

The Coordinator will work with all relevant areas of the College to identify potential and actual risks to security and privacy of information. Each Department head, or his or her designee, will conduct an annual data security review, with guidance from the Coordinator. Vice Presidents will be asked to identify any employees in their respective areas that work with covered data and information. In addition, the relevant departments of ITS will conduct an annual review of procedures, incidents,

and responses and will publish all relevant materials except in those cases where publication may likely lead to breaches of security or privacy. Publication of these materials is for the purpose of educating the College community on network and information security and privacy issues. ITS will assure that procedures and responses are appropriately reflective of those widely practiced at other national liberal arts colleges.

In order to protect the security and integrity of the College network and its data, ITS will develop and maintain a registry of all computers attached to the College network. This registry will include, where relevant, IP address or subnet; MAC address; physical location; operating system; intended use (server, personal computer, lab machine, etc.); the person, persons, or department primarily responsible for the machine; and whether the machine has, or has special access to, any confidential data covered by relevant external laws or regulations.

ITS assumes the responsibility of assuring that patches for servers and critical systems are reasonably up to date. ITS will review its procedures for patches to operating systems and software and will keep current on potential threats to the network and its data. Risk assessments will be updated annually.

ITS bears primary responsibility for the identification of internal and external risk assessment, but all members of the College community are involved in risk assessment associated with information technology areas. ITS, working in conjunction with the relevant College offices, will conduct regular risk assessments including, but not limited to, the categories listed by GLB.

ITS will work with the relevant offices (Finance, Human Resources, the Registrar, College Relations, and the Library, among others) to develop and maintain a registry of those members of the College community who have access to covered data and information. ITS, in cooperation with Human Resources and Finance, will work to keep this registry up to date.

ITS will oversee the physical security of all servers and terminals which contain or have access to covered data and information. ITS will work with other relevant areas of the College to develop guidelines for physical security of any covered servers in locations outside the ITS machine room. The College will conduct a survey of other physical security risks, including the storage of covered paper records in non-secure environments, and other procedures which may expose the College to risks.

One of the largest security risks may be the possible non-standard practices concerning social security numbers. Social security numbers are considered protected information under both GLB and the Family Educational Rights and Privacy Act (FERPA – 20 U.S.C. § 123g). By necessity, student social security numbers are in the College student information system. (Social Security Numbers are kept both for historical purposes and due to the requirements of 26 U.S.C. § 6050S, the tuition payment credit reporting requirements.) The College will conduct an assessment to

determine who has access to social security numbers, in what systems the numbers are still used, and in what instances students are inappropriately being asked to provide a social security number. This assessment will cover College employees as well as subcontractors such as the food services.

ITS will develop a plan to ensure that all electronic covered information is encrypted in transit and that the central databases are strongly protected from security risks.

It is recommended that relevant offices of the College decide whether more extensive background or reference checks or other forms of confirmation are prudent in the hiring process for certain new employees, for example employees handling confidential financial information.

ITS will develop written plans and procedures to detect any actual or attempted attacks on covered systems and will develop incident response procedures for actual or attempted unauthorized access to covered data or information.

E. Employee Training and Education

While directors and supervisors are ultimately responsible for ensuring compliance with information security practices, ITS and the College attorney will work in cooperation with the Office of Human Resources to develop training and education programs for all employees who have access to covered data. These employees typically fall into three categories: professionals in information technology who have general access to all College data; custodians of data, and those employees who use the data as part of their essential job duties.

F. Oversight of Service Providers and Contracts

GLB requires the College to take reasonable steps to select and retain service providers who maintain appropriate safeguards for covered data and information. The Risk Manager and the Coordinator, in cooperation with the College attorney, will develop and send form letters to all covered contractors requesting assurances of GLB compliance. While contracts entered into prior to June 24, 2002 are grandfathered until May 2004, the College will take steps to ensure that all relevant future contracts include a privacy clause and that all existing contracts are in compliance with GLB.

G. Evaluation and Revision of the Information Security Plan

GLB mandates that this Information Security Policy and Plan be subject to periodic review and adjustment. The most frequent of these reviews will occur within ITS where constantly changing technology and constantly evolving risks indicate the wisdom of periodic reviews. Processes in other relevant offices of the College such as data access procedures and the training program should

undergo regular review. The Policy itself should be reevaluated annually in order to assure ongoing compliance with existing and future laws and regulations.

H. Definitions

Covered data and information — for the purpose of this Policy includes student financial information required to be protected under the Gramm Leach Bliley Act (GLB). Covered data and information includes both paper and electronic records.

Student financial information — is that information the College has obtained from a student in the process of offering a financial product or service, or such information provided to the College by another financial institution. Offering a financial product or service includes offering student loans to students, receiving income tax information from a student’s parent when offering a financial aid package, and other miscellaneous financial services as defined in 12 CFR §225.28. Examples of student financial information include addresses, phone numbers, bank and credit card account numbers, income and credit histories, and social security numbers, in both paper and electronic format.

XVII. POLICY ON ACCEPTABLE USE OF INFORMATION TECHNOLOGY RESOURCES

A. General Statement

As a part of the physical and social learning infrastructure, Union College acquires, develops, and maintains computers, computer systems and networks, telecommunications systems and equipment, fax machines, electronic mail (e-mail), Internet access, removable media, servers, storage devices, handheld devices and other electronic equipment or media (“IT Resources”). These IT Resources are intended for College-related purposes, including direct and indirect support of the College's instruction, research, and service missions; of College administrative functions; of student and campus life activities; and of the free exchange of ideas among members of the College community and between the College community and the wider local, national, and world communities. In general, all computers, the data stored on them, e-mail messages, facsimiles, voicemail and other communications created by and/or stored on the College's IT Resources are the property of the College, which allows the College to access its IT Resources to locate business information, maintain the system and network, comply with legal requirements, and administer this and other College policy. Accordingly, your use of the College's IT Resources is subject to the privacy limitations set forth below (see Security and Privacy). There are some exceptions to this general rule, including but not limited to materials covered by the College's Intellectual Property policy, located in the Faculty Manual, and materials that are specifically licensed and not owned by the College. In the absence of a specific exception covering the equipment you are using or the data you are accessing, storing, or creating on College-owned equipment, the general rule set forth above applies.

The rights of academic freedom and freedom of expression apply to the use of College computing resources. So, too, however, do the responsibilities and limitations associated with those rights. The use of College IT Resources, like the use of any other College-provided resource and like any other College-related activity, is subject to the normal requirements of legal and ethical behavior within the Union College community. Thus, legitimate use of the College's IT Resources does not extend to whatever is technically possible. Although some limitations are built into computer operating systems and networks, those limitations are not the sole restrictions on what is permissible. Users must abide by all applicable restrictions, whether or not they are built into the operating system or network and whether or not they can be circumvented by technical means.

B. Applicability

This policy applies to all users of College IT Resources, whether affiliated with the College or not, and to all uses of those resources, whether on campus or from remote locations. Additional policies may apply to specific computers, computer systems, or networks provided or operated by specific units of the College or to uses within specific units. Consult the operators or managers of the specific

computer, computer system, or network in which you are interested or the management of the unit for further information.

C. Policy

All users of Union College IT Resources must:

Comply with all federal, New York State, and other applicable law; all generally applicable College rules and policies; and all applicable contracts and licenses. Examples of such laws, rules, policies, contracts, and licenses include the laws of libel, privacy, copyright, trademark, obscenity, and child pornography; the Electronic Communications Privacy Act and the Computer Fraud and Abuse Act, which prohibit "hacking", "cracking", and similar activities; the College's Student Conduct Code; the College's Policy Against Unlawful Discrimination, Harassment, Bias Activity and Retaliation; and all applicable software licenses. Discrimination, harassment of others, bias activity and/or retaliation, whether on campus, using the College's IT Resources and/or over the Internet, will not be tolerated. Prohibited conduct includes, but is not limited to, the use of anonymous/forged E-mail, "SPAM", port-scanning and other unsolicited messages or activity. Users who engage in electronic communications with persons in other states or countries or on other systems or networks should be aware that they may also be subject to the laws of those other states and countries and the rules and policies of those other systems and networks. Users are responsible for ascertaining, understanding, and complying with the laws, rules, policies, contracts, and licenses applicable to their particular uses.

Use only those IT Resources that they are authorized to use and use them only in the manner and to the extent authorized. Ability to access the College's IT Resources does not, by itself, imply authorization to do so. Users are responsible for ascertaining what authorizations are necessary and for obtaining them before proceeding. Accounts and passwords may not, under any circumstances, be shared with, or used by, persons other than those to whom they have been assigned by the College. Users will be held responsible for all activity originating from their registered computer. This includes all actions taken by guests using a connection registered under your name.

Respect the privacy of other users and their accounts, regardless of whether those accounts are securely protected. Again, ability to access other persons' accounts does not, by itself, imply authorization to do so. Users are responsible for ascertaining what authorizations are necessary and for obtaining them before proceeding.

Respect the finite capacity of those resources and limit use so as not to consume an unreasonable amount of those resources or to interfere unreasonably with the activity of other users. No user may in any way restrict or interfere with other's access to or use of the network. Abuse (intentional or not) of network resources will not be tolerated. This includes any activities

considered detrimental to the network or those that cause excessive traffic. The reasonableness of any particular use will be judged in the context of all of the relevant circumstances.

Refrain from using those resources for personal commercial purposes or for personal financial or other gain. Personal use of College computing resources for other purposes is permitted when it does not consume a significant amount of those resources, does not interfere with the performance of the user's job or other College responsibilities, and is otherwise in compliance with this policy. Further limits may be imposed upon personal use in accordance with normal supervisory procedures. IP Addresses may NOT be registered to domain names outside of Union College.

Refrain from stating or implying that they speak on behalf of the College unless doing so in the performance of legitimate duties on behalf of the College. Affiliation with the College does not, by itself, imply authorization to speak on behalf of the College. The use of suitable disclaimers is encouraged.

D. Enforcement

Users who violate this policy may be denied access to the College's IT Resources and may be subject to other penalties and disciplinary action, both within and outside of the College. Violations will normally be handled through the College disciplinary procedures applicable to the relevant user. For example, alleged violations by students will normally be investigated, and any penalties or other discipline will normally be imposed, by the Office of the Dean of Students, in accordance with the Student Conduct Code Procedures. However, the College may temporarily suspend or block access to an account, prior to the initiation or completion of such procedures, when it reasonably appears necessary to do so in order to protect the integrity, security, or functionality of College or other computing resources or to protect the College from liability. The College may also refer suspected violations of applicable law to appropriate law enforcement agencies.

E. Security and Privacy

Union College employs various measures to protect the security of its computing resources and of their users' accounts. Users should be aware, however, that the College cannot guarantee such security. Users should therefore engage in "safe computing" practices by establishing appropriate access restrictions for their accounts, guarding their passwords, and changing them regularly.

Users should also be aware that their uses of the College's IT Resources are not completely private. While the College does not routinely monitor individual usage of its computing resources, the normal operation and maintenance of the College's computing resources require the backup and caching of data and communications, the logging of activity, the monitoring of general usage patterns, the scanning of systems and network ports for anomalies and vulnerabilities, and other such activities that are necessary for the rendition of service. The College may also specifically monitor

the activity and accounts of individual users of College computing resources, including individual login sessions and communications, without notice, when (a) the user has given permission or has voluntarily made them accessible to the public, for example by posting to a publicly-accessible web page or providing publicly-accessible network services; (b) it reasonably appears necessary to do so to protect the integrity, security, or functionality of the College or other computing resources or to protect the College from liability; (c) an account appears to be engaged in unusual or unusually excessive activity, as indicated by the monitoring of general activity and usage patterns; or (d) it is otherwise required or permitted by law. The College may also monitor the activity and accounts of individual users, upon notice to the individual user, if there is reasonable cause to believe that the user has violated, or is violating this or any other College policy. Any individual monitoring, other than that specified in "(a)", required by law, or necessary to respond to perceived emergency situations, must be authorized in advance by the Chief Information Officer or the Chief Information Officer's designees. It is common practice by the Chief Information Officer to relinquish decision-making responsibility regarding monitoring emails to the appropriate Vice President and/or the President. Use of the College's IT Resources constitutes consent by the user to all of the terms and conditions of this policy, as well as consent to the College's accessing, intercepting, and monitoring of employee use of the College's IT Resources in accordance with this policy.

Union College, in its discretion, may disclose the results of any such general or individual monitoring, including the contents and records of individual communications, to appropriate College personnel or law enforcement agencies and may use those results in appropriate College disciplinary proceedings.